



# Community Development Block Grant Program

Report to the Legislature  
In Response to Senate Bill 106 (Chapter 96, Statutes of 2017)

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Governor Edmund G. Brown Jr.  
State of California

Alexis Podesta, Secretary  
Business, Consumer Services and Housing Agency

Ben Metcalf, Director  
California Department of Housing and Community Development



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## Executive Summary

The federal Community Development Block Grant (CDBG) program is an important tool for helping local governments tackle serious challenges facing their communities—from safe, stable, affordable housing, to creating jobs through the expansion and retention of local businesses, to health and safety improvement projects like senior daycare facilities, fire stations, and medical clinics.

The California Department of Housing and Community Development (HCD) administers the distribution of CDBG funds that come from the U.S. Department of Housing and Urban Development (HUD) aimed at smaller and rural communities that often lack access to other types of financial resources.

In July 2017, HCD embarked on a comprehensive process to redesign the federal CDBG program by analyzing the current structure and identifying ways the program could be improved. HCD partnered with a diverse spectrum of stakeholders and formed the CDBG Redesign Working Group to ensure inclusive and diverse input. HCD also received valuable technical assistance provided by HUD. These collaborative efforts identified and evaluated inefficiencies in administration, requirements, and overall program effectiveness.

Specific program challenges include:

- California has the lowest CDBG expenditure rate in the country and was recently monitored by HUD, which called for significant changes to bring the program into compliance with the federal rules;
- Resources and capacity to effectively implement the program at both the state and local levels have been reduced due to budget reductions in recent years, making the program's operation and oversight more difficult; and
- While CDBG funding provides an opportunity to support local community needs, it must also align with state priorities and meet national objectives.

HCD intends to address these challenges by focusing on the following:

- Improving program delivery to ensure eligible cities and counties can successfully participate, including developing clear and consistent policies and procedures; communicating regularly with, and inviting input from, local jurisdictions and other stakeholders; and providing technical assistance and training to jurisdiction staff.
- Making changes necessary to ensure the state's expenditure rate increases and California's compliance with HUD rules is restored.
- Reorganizing HCD's operations to maximize the efficient use of resources and eliminate inefficiencies in program administration.
- Providing robust and transparent information and analysis to support ongoing program improvement and assessment of the program's ability to fulfill its promise to improve the lives of low- and moderate-income individuals and families throughout California.

HCD looks forward to working with the CDBG Redesign Working Group and other stakeholders to refine its redesign efforts and to ensure this important federal resource is effectively used to improve California's communities.

## Summary of Key Proposed Policy Changes

Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<b>FROM COMPARISON OF FEDERAL AND STATE PROGRAM REQUIREMENTS</b>						
<u>Notice of Funding Availability (NOFA) Timing</u> : HCD is considering obligating funds earlier in the Program Year through a standardized, streamlined NOFA in January of every year with awards to be made upon receipt of funds from the U.S. Department of Housing and Urban Development (HUD).	This change would contribute to an increase in the state's expenditure rate by ensuring that funds are awarded much earlier in the Program Year.	Yes	Yes	Low	Slightly Less (-1)	Neutral (0)
<u>Award Amounts</u> : HCD is considering limiting the minimum and increasing the maximum allowable grant per activity.	This change would mean fewer grants to be administered by HCD, and possibly an increase in local jurisdictions' ability to participate in the program because of less time spent seeking additional financing.	No	Yes	Low	Slightly Less (-1)	Slightly Less (-1)
<u>Eligibility Requirements</u> : HCD is considering all eligibility requirements as part of the redesign process and development of new program guidelines.	Changes to eligibility requirements need further exploration to determine their impact on expenditures, workload and program effectiveness.	No	No	Low	Neutral (0)	Neutral (0)
<u>Eligible Activities</u> : HCD is considering eliminating some eligible activities, possibly those that are underutilized or do not reflect local or state priorities.	Eliminating some eligible activities could reduce workload for HCD staff and target funds to activities that reflect policy priorities.	No	Yes	Low	Slightly Less (-1)	Slightly Less (-1)
<u>General Administration (GA) Fees</u> : HCD is considering higher GA levels for certain types of activities that have a heavier administrative burden.	Grantees would benefit from a higher administrative amount for those activities that require additional administrative oversight.	No	No	Low	Neutral (0)	Neutral (0)
<u>Procurement</u> : HCD recently adopted the federal requirements at 2 CFR Part 200 to bring the state into compliance with federal regulations.  HCD is considering implementing a procurement policy similar to that of other states as part of the redesign process and development of new program guidelines.	This change would reduce the burden on both local jurisdictions to figure out the rules and state staff to determine if the process meets federal requirements. Since resolving procurement issues can delay projects moving forward, simplifying this issue could increase the state's expenditure rate because grantees could more quickly expend funds on project activities.	No	Yes	Medium	Less (-2)	Less (-2)

Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<u>Record Retention</u> : HCD is proposing to update materials and trainings for staff and local governments to reflect the three-year retention requirement.	This change would bring HCD into compliance with federal regulations.	No	No	Low	Slightly Less (-1)	Less (-2)
<u>Monitoring</u> : HCD is implementing a new monitoring plan in response to the HUD Monitoring Report.	This will bring HCD into compliance with federal monitoring requirements. It will have workload impacts on both local jurisdictions and the state.	Yes	No	High	More (+2)	Slightly More (+1)
<b>STRATEGIES TO INCREASE EXPENDITURES</b>						
<u>Pre-Agreement Costs</u> : HCD is proposing allowing reimbursement of pre-agreement costs to expedite completion of general conditions and the implementation of the activity upon award, at the risk of the applicant jurisdiction.	This change would allow grantees to undertake (and be reimbursed for) pre-agreement steps (such as environmental review) on all exempt activities, at their own risk, until final clearance of the General Conditions Checklist. This would allow grantees to implement activities soon after award, which would increase the state's expenditure rate.	No	Yes	Low	Neutral (0)	Neutral (0)
<u>Planning Only Grants</u> : HCD is proposing allowing and encouraging Planning Only grants to complete certain readiness activities before large amounts of Treasury funds are obligated.	This change would reduce the number of projects that either 1) take a protracted time to complete because of time required to complete pre-implementation activities, or 2) fail to move forward at all. This change would increase the state's expenditure rate and reduce workload to the extent project modifications and contract changes decline.	No	Yes	Low	Slightly Less (-1)	Slightly Less (-1)
<u>Method of Distribution (MOD) and NOFA Frequency</u> : No change to the current MOD or frequency of NOFAs.	There are serious flaws with alternative approaches, and it cannot be demonstrated that other approaches would result in increased expenditures or administrative efficiencies.	No	No	Low	Neutral (0)	Neutral (0)
<u>NOFA Development</u> : HCD is considering developing a streamlined, boilerplate NOFA that could be used for all future NOFAs with minimal revision.	This change would result in a more expedited NOFA development and publication process, resulting in greater administrative efficiency.	No	Yes	Low	Less (-2)	Slightly Less (-1)

Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<u>Growth Control Measures</u> : HCD is proposing requiring the No Growth Control Measures confirmation to be made a part of the Resolution required to be submitted with the application.	This change would result in administrative efficiencies and a reduction in HCD staff time during application evaluation.	No	No	Low	Slightly Less (-1)	Slightly More (+1)
<u>50 Percent Rule</u> : HCD is proposing to allow an applicant wishing to apply for new grant funds to voluntarily disencumber funds previously awarded prior to the application deadline if the project for which they were awarded is stalled or becomes infeasible.	This change would allow jurisdictions to apply for funding without having to request a waiver. This would ensure funds would be either expended more quickly or returned without delay for making additional awards, increasing the state's expenditure rate and reducing workload.	Yes	Yes	Low	Slightly Less (-1)	Slightly More (+1)
<u>Readiness</u> : HCD is proposing to simplify and strengthen readiness requirements. Threshold readiness criteria will be further refined as part of the redesign process and development of new program guidelines in order to enhance the likelihood of more timely expenditure of funds and to reduce administrative complexity at the same time. HCD proposes to require as a threshold criterion for a program, adopted guidelines; and for a project, at least site control and a funding commitment.	This change would increase the likelihood of a more timely expenditure of funds, increasing the state's expenditure rate, and reduce workload and administrative complexity.	No	Yes	Low	Slightly Less (-1)	Neutral (0)
<u>Timely Reporting</u> : HCD is proposing to make timely submittal of the prior two annual reports a threshold requirement for applications. If an applicant has not participated in the CDBG program previously, the application will not be rejected based on this criterion.	This change would increase HCD's ability to fully comply with HUD's reporting requirements.	Yes	No	Low	Neutral (0)	Neutral (0)
<u>Capacity</u> : HCD is proposing to make capacity a threshold criterion with demonstrated capacity required before an application would be considered for funding.	This change could result in fewer applications moving past threshold for evaluation with stronger applications and subsequent awards for projects and programs more likely to successfully implement grant-funded activities, increasing the state's expenditure rate.	No	Yes	Low	Slightly Less (-1)	Neutral (0)
<u>Application Processing</u> : HCD is proposing to develop a self-scoring application and require all applicants to complete the scoring process as part of their application.	This change would reduce staff workload and could result in funding activities that would be more successful, increasing the state's expenditure rate.	No	Yes	Medium	Slightly Less (-1)	Slightly More (+1)

Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<p><u>Post-Award Considerations:</u> HCD is establishing performance milestones identifying progress toward successful completion in standard agreements, and will disencumber funds if milestone deadlines are missed unless the delay is not the fault of the grantee and the activity continues to be feasible.</p>	<p>This change will slightly increase staff workload, while also increasing the state's expenditure rate by more quickly reallocating funds to projects that are ready to be implemented.</p>	Yes	Yes	Medium	Slightly More (+1)	Slightly More (+1)
<b>STRATEGIES TO REDUCE PROGRAM INCOME</b>						
<p><u>Program Income (PI) Agreements:</u> HCD is proposing to develop a new PI Reuse Agreement (PIRA) and all grantees with PI undertaking activities that will generate PI will be required to execute this agreement. It will be a separate agreement from the Standard Agreement for administration of grant funds.</p>	<p>This change would provide clarity and consistency regarding the responsibilities required to use PI. It would result in the use of PI on a more expedited basis and would reduce unspent PI on hand. Once implemented, its impact on local jurisdiction workload should be neutral. It should reduce HCD workload slightly as there would be fewer waivers and amendments to process.</p>	Yes	Yes	Medium	Slightly Less (-1)	Neutral (0)
<p><u>Spend-Down Policy:</u> HCD is proposing a change to allow grantees to keep PI to be spent on the same activity as long as they complete at least one project within 18 months. The limit of PI funds allowed on hand would be \$250,000 for Housing Rehabilitation and Homebuyer Assistance, and \$750,000 for Economic Development Loans. Any amount of PI above these limits must be remitted to HCD.</p>	<p>This change would provide a predictable and achievable PI policy that would apply to all grantees with PI. It would achieve administrative simplicity, eliminate confusion, and result in a reduction in unspent PI. The impact of this change on workload would be neutral after implementation. It would keep PI in the communities that generate it, where it could be used to fund additional CDBG activities.</p>	Yes	Yes	None	Neutral (0)	Neutral (0)
<p><u>Supplemental Activities:</u> "Supplementals" will be replaced through the use of a PIRA.</p>	<p>This provides grantees the ability to use available PI on a project without the complication of the Supplemental process. It will simplify the process.</p>	Yes	Yes	Medium	Less (-1)	Neutral (0)
<b>SUPPORTING ECONOMIC DEVELOPMENT</b>						
<p><u>Set-Aside Period:</u> HCD proposes continuing the ED OTC program. HCD is proposing a reduction in the length of time before set-aside ED funds are reallocated to non-ED activities from 15 months to 12 months or the next NOFA, whichever is soonest.</p>	<p>Reducing the set-aside period from 15 months to 12 months would assist HCD in meeting HUD monitoring requirements and increasing the state's expenditure rate.</p>	Yes	Yes	Low	Neutral (0)	Neutral (0)

Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<b>OPERATIONAL AND ORGANIZATIONAL CHANGES</b>						
<p><u>Streamlined Contracting Period:</u> HCD is establishing a standard of having contract boilerplates completed prior to the announcement of awards. The goal is to reduce delivery time for contracts to awardees from 60 to 30 days after award.</p>	<p>Having boilerplates completed before awards are announced will allow HCD to move from award notices to execution of contracts for these awards in a timely manner.</p>	Yes	Yes	Medium	Slightly More (+1)	Neutral (0)
<p><u>Appeals Process:</u> HCD is implementing a formal appeal process that includes the threshold review stage when applications submitted in response to a given NOFA are being initially reviewed and analyzed. Applicants will have 15 days to appeal their final score or, in the case of threshold review, their disqualification from being considered for funding.</p>	<p>The formal appeal process will allow applicants an opportunity to dispute scores or threshold determinations prior to HCD finalizing the ratings and rankings. Currently, this appeals process starts after the announcement of awards at the end of the rating and ranking period for applications. This action will improve customer service and provide additional transparency to HCD's award processes by creating a standardized formal appeal process prior to making awards.</p>	No	No	Low	Slightly Less (-1)	Neutral (0)
<p><u>Early Review of Organizational Documents:</u> Organizational documents are key documents required as part of the contracting process, to allow HCD to enter into a legally binding contract with the correct entities involved with an award. Currently the review of these documents occurs during the initial contracting stage, which occurs after awards are made. If any issues are identified with the organizational documents, they typically delay the contracting process.</p>	<p>By moving the review of these organizational documents earlier into the application review time frame, HCD can ensure timely completion of the award process and execution of contracts after awards.</p>	Yes	Yes	Low	Neutral (0)	Neutral (0)

## Introduction

In July 2017, the state Department of Housing and Community Development (HCD) initiated a process to redesign California’s federal Community Development Block Grant (CDBG) program. This redesign process responds to the Budget Trailer Bill, Senate Bill (SB) 106,<sup>1</sup> which expressed legislative intent for improving the CDBG program and directed HCD to engage in specific activities to address stakeholder concerns. The redesign must also address program deficiencies identified by the U.S. Department of Housing and Urban Development (HUD) in its recent Monitoring Report.

Among other things, SB 106 required HCD to “analyze and report on its award process, contract management processes and policies, and fiscal processes...identifying efficiencies that can be implemented to improve the processing of applications, contract management and fiscal processes, and communications with local agencies. HCD shall identify requirements previously adopted by the state that are in excess of the minimum requirements applicable to eligible activities...that, if eliminated, facilitate greater subscription of federal funds and reduce state administrative workload.” The results of this analysis, which will be further evaluated as part of the CDBG program redesign, must be submitted to the Department of Finance (DOF) and the Budget Committees of the Legislature by June 30, 2018.

The purpose of the CDBG program redesign is to design the program so it will better serve local jurisdictions while streamlining HCD’s workload and complying with federal requirements. Specifically, it must address low expenditure rates and high levels of unspent Program Income (PI),<sup>2</sup> while ensuring the program is effectively serving the needs of California’s rural and non-entitlement communities in line with program requirements, national best practices, and state priorities.<sup>3</sup>

The CDBG redesign is being undertaken in partnership with the CDBG Redesign Working Group (RWG), which is comprised of local jurisdictions, HCD staff, and a broad array of other stakeholders.<sup>4</sup> Concurrent with the redesign process, HUD is providing technical assistance (TA) to assess California’s CDBG program and make

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<sup>1</sup> 2017 Budget Trailer Bill, SB 106, Chapter 96, Statutes of 2017. In this report, it is referred to as SB 106. See Appendix I for the text and brief analysis of SB 106.

<sup>2</sup> See Appendix II for definitions of key terms used in this report.

<sup>3</sup> For a more complete discussion of the CDBG redesign process and issues redesign must address, see the July 2017 CDBG Proposed Program Redesign Framing Paper at <http://www.hcd.ca.gov/grants-funding/active-funding/docs/CDBG-Framing-Paper-7.28.17-Final.pdf>.

<sup>4</sup> This report would not have been possible without the commitment and consistent engagement of the RWG. HCD would like to acknowledge all of the members’ contributions to the CDBG redesign process. For the list of RWG members, see Appendix III. For more information about the CDBG redesign process, please see <http://www.hcd.ca.gov/grants-funding/active-funding/cdbg/CDBG-program-redesign.shtml>.

recommendations to improve the program and ensure compliance with federal requirements.

One result of this redesign process will be the development of new CDBG Program Guidelines. Upon completion of the new guidelines, they will be submitted to DOF for approval and the Joint Legislative Budget Committee of the California Legislature (JLBC) will be notified before adoption.

This report summarizes the results of the CDBG redesign process to date and responds to the reporting requirements mandated by SB 106. It is the culmination of almost a year of work, six listening sessions throughout the state, and ten in-person RWG meetings since July 2017. It describes the context for redesign, provides an overview of the current CDBG program, discusses key program redesign policies, and describes changes to HCD's administration of the CDBG program. This report is being submitted to DOF and the Legislative Budget Committees in accordance with SB 106 requirements.

The CDBG Redesign Timeline provides a summary of the key milestones in the redesign process and development of the new CDBG Program Guidelines.

**CDBG Program Redesign Milestones—July 2017 to June 2019**

*Updated: June 29, 2018*

Key Milestones	Target <sup>5</sup> Completion Date	Notes
Senate Bill (SB) 106 chaptered	July 21, 2017	
CDBG Redesign Framing Paper submitted to Legislature	July 31, 2017	
Redesign Working Group (RWG) convened	August 28, 2017	SB 106 required HCD to begin meeting with stakeholders for the purpose of developing new program guidelines collaboratively by September 1, 2017.
2017 NOFA issued	September 1, 2017	SB 106 required HCD to issue a NOFA to expedite allocation of all available unencumbered funds as of May 22, 2017 by January 1, 2018. Applications were due by December 1, 2017 and awards will be announced in Summer 2018.
Links to CDBG economic development regulations or guidelines published by U.S. Department of Housing and Urban Development (HUD) provided on HCD website	December 29, 2017	SB 106 required HCD to provide these Internet links by January 1, 2018. Additional revisions to the CDBG program webpage (to address stakeholder feedback) are in process and are expected to be completed in Fall 2018.
Training on federal rules, regulations, or guidelines published by HUD on economic development activities provided to HCD staff	December 12 and 13, 2017	SB 106 required HCD to provide this training to staff by January 1, 2018. A 2-day training was provided to HCD staff by Steve Sachs, former HUD Region IX Director. An additional day of training on economic development, to which both HCD staff and stakeholders will be invited, will be held in Fall 2018.
SB 106 Report submitted to Department of Finance (DOF) and budget committees of both houses of the Legislature	June 29, 2018	SB 106 required HCD to submit the results of its analysis of inefficiencies in current operations of the CDBG program and areas in which the state program requirements are in excess of the federal program requirements by June 30, 2018. The SB 106 Report also identifies program and operational changes that could facilitate greater subscription of program funds and reduce state administrative workload, as required by SB 106.
Chapter 21 of the CDBG Grant Management Chapter on economic development updated	June 29, 2018	SB 106 required HCD to update Chapter 21 to facilitate the subscription of and reflect all federal requirements for economic development business assistance loans. Once the CDBG redesign is complete, all chapters of the Grant Management Manual will be revised to align with new program requirements.
2018 NOFA issued	September 2018	The 2018 NOFA, based on the 2017 NOFA, will reflect the existing program requirements while also incorporating some elements of redesign to reduce administrative burdens and increase the state's expenditure rate. Applications will be due November 2018 and awards will be made in Spring 2019.

<sup>5</sup> For milestones post-June 30, 2018: All dates represent HCD's current estimate and are subject to change.

Key Milestones	Target <sup>5</sup> Completion Date	Notes
Update CDBG webpage and complete stakeholder Communications Plan	September 2018	The work of the RWG will continue through December 2018 until CDBG program redesign is completed and the new program guidelines are issued. A Communications Plan that provides consistent, ongoing information to stakeholders and regular input to HCD is a critical component of CDBG program redesign.
Complete CDBG Technical Assistance (TA) / Training Plan	October 2018	A Plan for providing regular TA and training, for both HCD staff and stakeholders, is a critical component of the CDBG program redesign to ensure consistent implementation and full compliance with federal requirements. HCD will partner with associations in order to provide this TA and training within existing staff resources.
CDBG Advisory Committee Charter drafted	November 2018	Before the RWG is dissolved, a Charter for the CDBG Advisory Committee, the entity charged with providing input to HCD on CDBG program and operational issues, must be developed. Roles, responsibilities, and expectations for Advisory Committee members will be articulated, and an outreach plan to invite representative membership from non-entitlement jurisdictions, tribes, consultants, and associations, will be developed.
Draft CDBG Program Guidelines issued	December 2018	Once the Draft CDBG Program Guidelines are issued, the RWG will be dissolved.
30-day public comment period for Draft CDBG Program Guidelines	January 2019	Working in partnership with associations, HCD will schedule workshops and webinars to provide an overview of the new program guidelines and invite input from stakeholders.
CDBG Advisory Committee convened	January 2019	
Final CDBG Program Guidelines issued	March 2019	
2019 NOFA issued	April 2019	The goal is to shift the NOFA cycle forward so that by 2020, the annual NOFA is issued in January for that year's HUD allocation. This will allow HCD to issue awards for CDBG funds as soon as the Program Year begins on July 1, which will increase the state's expenditure rate.
2019 Annual Plan to HUD submitted	May 2019	The 2019 Annual Plan will include the redesigned CDBG program.
CDBG Grant Management Manual revision complete	May 2019	Work to revise the CDBG Grant Management Manual will begin January 2019 so that revisions are complete for the 2019 CDBG allocation.

## CDBG Program Redesign Considerations

The CDBG program redesign is occurring amidst several significant challenges to the program. Over the past ten years, the United States Congress has cut the overall appropriation for CDBG, resulting in a 34 percent grant reduction for HCD to award to eligible local jurisdictions in California. Without an increased ability to demonstrate success, the program may experience much deeper cuts in the future. Additionally, nine limited-term positions provided from 2014 to 2017 to address a workload backlog expired on July 1, 2017. Including these nine positions, and as a result of the reduction in both federal funding and state match, HCD staff funded by the program has been reduced by 61 percent since 2010 (from 28 to 11). The CDBG program redesign must take these reductions in resources into account.

In addition to the budgetary challenges, there are significant programmatic challenges that must also be addressed through the CDBG program redesign. California has the worst expenditure rate in the nation,<sup>6</sup> and HUD has issued clear direction that California must redesign CDBG program implementation to do all of the following: 1) improve the expenditure rate, 2) expend available PI, 3) conduct grantee monitoring, and 4) implement internal control requirements and other operating efficiencies. Subsequent to a week-long site visit in November 2017, HUD formalized these requirements in a Monitoring Report issued March 12, 2018. Under HUD rules, HCD has 15 months from the date of this report to demonstrate it has addressed the HUD findings and is in compliance with program requirements. The CDBG program redesign is an opportunity to implement the changes required so that HCD can bring the CDBG program into compliance with these requirements.

In redesigning the CDBG Program, HCD is seeking a balance between offering the maximum degree of flexibility to local jurisdictions to use CDBG funds for appropriate and needed activities, while at the same time ensuring the program fulfills national and state policy objectives, complies with federal requirements, and has an administrative structure that is aligned with current resources available to implement the program. HCD is committed to creating a program with an administrative workload that can be sustained within the resources available, through refocusing the scope of the program to enable HCD to more efficiently and effectively implement the program and respond to state priorities and the needs of local jurisdictions.

Given the challenges of redesigning the CDBG program to achieve these goals, HCD has developed a CDBG Redesign and Improvements Roadmap (Roadmap) that illustrates the three key components of program redesign. As the Roadmap illustrates, CDBG program redesign is an ongoing process that will inform and be informed by

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<sup>6</sup> From HUD's May 2018 Expenditure Report.

concurrent activities being undertaken by HCD to redesign CDBG operations and implement Business Process Improvements (BPIs). These concurrent activities will be discussed later in this report, in the Operational and Organizational Changes section.

Over time, as the redesigned program is successfully implemented, HCD will use the following milestones to measure progress in achieving the goals of redesign:

Increases in the number of local jurisdictions that apply for CDBG funds from previous years;

- Decreases in the level of unspent CDBG grant funding to within the parameters set by HUD;
- Higher utilization rates of PI than in previous years;
- Reductions in disencumbrances and extension requests from past years; and
- Decreases in administrative costs for both HCD and local jurisdictions to match resources available and reflect programmatic efficiencies.

As important as these measures are, HCD must also provide ongoing program improvement to ensure the program is successful in meeting its policy objectives, including the following:

- Increases in new and rehabilitated affordable housing;
- Increases in services provided to the most vulnerable residents; and
- Increases in the number of jobs created and retained for lower-income residents.



## DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT CDBG Redesign and Improvement Roadmap

July 2017 – June 2018

July 2018 – June 2019

July 2019 – June 2020

CDBG  
Program  
Redesign

- Convened Redesign Working Group to advise HCD on redesign
- Provided policy framework to improve customer service, increase expenditures, reduce unspent program income, support economic development, and reduce administrative burdens
- Updated CDBG webpage with accurate information and links to HUD
- Prepared redesign reports for Legislature and DOF in response to SB 106 mandates

- 2018 NOFA release: Sept 2018
- Develop concrete implementation strategies to achieve redesign
- Produce new CDBG program guidelines
- Develop and adopt Advisory Committee charter
- Provide outreach, technical assistance, and training on redesigned program, guidelines and NOFA through partnerships with associations
- 2019 NOFA release: April 2019

- 2019 funding applications due: Summer 2019
- 2019 awards announced: Fall 2019
- 2019 Standard Agreements: Winter 2019-20
- Revise CDBG program guidelines as needed

CDBG  
Operations  
Redesign

- Consolidated Contract Management and FRED sections into a single Grant Management Section;
- Created CDBG dedicated work unit
- Created Federal NOFA section to focus better on federal award processes
- Responded to HUD with Corrective Action Plan
- Conducted 3 onsite monitoring visits
- Continued to meet AB 325 requirements for disbursements and contracts
- Documented CAPES reporting needs/gaps

- Implement new processes to improve internal controls per the HUD Corrective Action Plan
- Expand TA monitoring
- Develop data management procedures for IDIS reporting
- Develop a protocol for monthly grantee communications
- Provide internal and external training on new policies and procedures

- Complete implementation of new processes specified in the HUD Corrective Action Plan:
  - Revise 14 policies and procedures
  - Revise Grant Management Manual
  - Update or revise key legal documents
  - Provide trainings on specific topics (internal and external)

Business  
Process  
Improvement  
(BPI)

- Began training HCD staff and internal BPI Change Agents
- Initiated 5 BPI pilot teams
- Integrated Change Management with BPI efforts

- Mature the BPI project selection process
- Increase the number of internal BPI Change Agents
- Initiate independent functioning of Experienced Change Agents
- Complete or have underway at least 10 BPI projects

- Utilize BPI as the primary continuous improvement methodology for CDBG
- Utilize internal BPI Change Agents to facilitate all BPI efforts independently

# The CDBG Program at a Glance

## The Federal CDBG Program

The federal CDBG program consists of two components: an entitlement program, in which larger jurisdictions receive a direct allocation of CDBG funds from HUD, and a non-entitlement program, in which small and rural jurisdictions receive CDBG funds through allocations to states for purposes of the CDBG program. Congress, recognizing that small and rural jurisdictions often lack capacity to successfully implement all components of the CDBG program, amended the Housing and Community Development Act of 1974 (CDBG Act) in 1981 to give each state responsibility for administering CDBG funds for non-entitlement areas. Non-entitlement areas are cities with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas) and counties with populations of less than 200,000.

Under the non-entitlement CDBG program, states are responsible for ensuring grant funds are used to meet one of three National Objectives defined in federal CDBG statute: to develop and preserve decent affordable housing, provide services to the most vulnerable residents in communities, and create and retain jobs for lower-income residents in communities. Annually, each state develops funding priorities and criteria for selecting projects and awarding grants and is required to publicize its proposed Method of Distribution for CDBG funds as part of its Consolidated Plan and Annual Action Plan updates.

The federal allocation is made each year using states' poverty rates in combination with the number of jurisdictions (state and local) competing for the funds. Nationwide, as the federal budget decreases and additional jurisdictions shift from non-entitlement to entitlement status and become eligible for their own grants from HUD, resources for the non-entitlement CDBG program have been reduced.

Federal program requirements direct that a minimum of 70 percent of the CDBG grant funds must be expended to benefit low- and moderate-income families/individuals. Low-income families are defined as families whose incomes are at or below 50 percent of local area median income (AMI). Moderate-income families are defined as families whose incomes are 50 to 80 percent of AMI. General Administration (GA) and Planning and Technical Assistance, which are essentially the administrative components of the program, cannot exceed a combined 20 percent of the total federal grant. A maximum of 15 percent of the total funds available (both grant and PI funds) may be expended for Public Services activities. There is also a required Colonia<sup>7</sup> set-aside, which is currently five percent of the total federal grant. There are no federal requirements regarding

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<sup>7</sup> See Appendix II for definitions of key terms used in this report.

eligible activities.<sup>8</sup> Grantees may apply for any combination of activities in an application period as long as the activities are funded under the NOFA.

States must comply with federal program requirements in implementing the CDBG non-entitlement program and may also enact additional state-specific programmatic requirements. In California, all facets of the CDBG program are administered by HCD.

### California's CDBG Program

HCD's announcement of available funding to local non-entitlement jurisdictions is made through a Notice of Funding Availability (NOFA), which currently includes the following broad categories of eligible activities (with examples for use of funds):

- Housing Assistance (rental rehabilitation, first-time home buyer assistance, infrastructure in support of housing)
- Economic Development (programs and projects in support of job creation)
- Public Infrastructure (roads, sidewalks, water/sewer)
- Public Facilities (fire stations, community centers)
- Public Services (food banks, senior centers, youth centers)
- Planning (feasibility for general community development and economic development)

Within these broad categories,<sup>9</sup> there is a range of individual activities for which applicants can apply.

California's CDBG regulations currently allow eligible jurisdictions to submit one application that includes any combination of up to seven activities in response to the NOFA, and they may submit a separate application for Economic Development (ED) Over-the-Counter (OTC) set-aside funds. Eligible applicants may apply for the 1.25 percent state-required Native American and federally required Colonia set-asides, in addition to these funding categories. HCD may publish a separate CDBG NOFA to address such things as damage from wildfires, droughts, or floods.

In 2011, HCD implemented changes to improve CDBG program delivery and administrative processes. The most significant changes were the development of a NOFA in 2012 announcing the availability of funds in one "Super-NOFA" instead of four separate NOFAs as had been done in prior years, and the creation of the "50 Percent Rule." The 50 Percent Rule requires jurisdictions with grants made in 2012 and thereafter to have expended at least 50 percent of the combined total of all open CDBG

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<sup>8</sup> For a discussion of eligible activities currently offered in California's non-entitlement program and alternatives for reducing the number of eligible activities, please see Appendix VII.

<sup>9</sup> See Appendix VII for a complete listing of these activities.

grants in order to be eligible to apply for additional CDBG funds in response to a new NOFA.

In addition, new rules in 2013 required that jurisdictions expend all PI on hand before using grant funds and required HCD to report all CDBG PI activity in the HUD Integrated Data and Information System (IDIS). HUD strongly encouraged HCD to collect all unspent local PI and include it in subsequent NOFAs. Instead, after consulting with stakeholders, HCD developed a process that allows local jurisdictions to identify “Supplemental Activities” and use their PI to fund another CDBG-eligible activity that benefits their communities. However, even with this provision, the amount of PI local jurisdictions have on hand remains problematic. CDBG grantees have a combined outstanding balance of more than \$20 million in unspent PI, funds that are held by the local jurisdictions in which they were generated and could be benefitting those communities.

### **CDBG Activity from 2012-13 through 2016-17**

For the five-year period from 2012-13 through 2016-17, HCD received 216 applications for CDBG grant funds from 134 different jurisdictions and made 190 awards. The majority of these jurisdictions received awards in one of these years, although many awardees received multiple grant awards. Table 1 provides an overview of these data.

For the period 2012-13 through 2016-17, California received a total of almost \$224.2 million in federal funds from HUD for CDBG activities. During this time, HCD awarded almost \$210.0 million for CDBG activities. Grantees have spent just over \$116.0 million of these awards, leaving a total remaining balance of \$94.4 million unspent (\$67.1 million still allocated to grantees and \$27.3 million disencumbered).

For the period from 2012-13 through 2016-17, the three broad categories of activities with the greatest demand for funds (as measured by the total amount of funds requested) were Infrastructure (30 percent, \$81.4 million), Public Facilities (22 percent, \$60.5 million), and Housing Assistance (19 percent, \$51.4 million). During this period, the single activity with the largest amount of funds awarded was Water/Sewer Projects (\$53.7 million) in the Infrastructure category, followed by Public Facilities (\$37.8 million). Activities with the highest expenditure rates over this period were Street Improvement Projects (70 percent), Public Facilities excluding street and water/sewer improvements (62 percent), and Public Services (61 percent). Overall, ED OTC projects had the highest expenditure rate (83 percent).

Table 2 reports application, award, and expenditure activity for broad-level activity categories for CDBG awards made during fiscal years 2012-13 to 2016-17, and

Figure 1 shows the percentage distribution of application amount, award amount, and expenditure amount, respectively, across these activity categories. Table 3 reports

application, award, and expenditure activity for more detailed activity categories, excluding ED OTC.<sup>10</sup>

For more historical information about California's CDBG Program and funds awarded, the [Consolidated and Annual Performance Evaluation Reports](#) (CAPERS) and HCD's [Annual Reports](#) are both available on the HCD website.

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<sup>10</sup> For information about these applications and awards, please see the Supporting Economic Development section of this report.

**Table 1: CDBG Activity 2012-13 through 2016-17: Eligible Jurisdictions, Applicants, and Awardees**

	Approximate number of eligible jurisdictions	Number of applicants	Total application amount	Number of awardees	Total amount awarded
2012-13	163	62	\$55,623,833	56	\$47,866,897
2013-14	163	65	\$79,405,574	53	\$60,536,637
2014-15	163	31	\$45,197,887	31	\$37,765,333
2015-16	163	23	\$35,515,475	23	\$33,427,976
2016-17	163	35	\$54,856,247	27	\$30,294,002
<b>Totals:</b>	134 jurisdictions applied at least once	216 applications were received	\$270,599,016	190 awards were made	\$209,890,845

**Percent of Awardees That Received Multiple Awards 2012-13 through 2016-17**

1 year:	2 years:	3 years:	4 years:
59.8%	33.6%	4.9%	1.7%

*Note: 163 jurisdictions were eligible for state CDBG funding under the 2017 NOFA. This number is an approximation of eligible jurisdictions for previous years, due to annual population changes.*

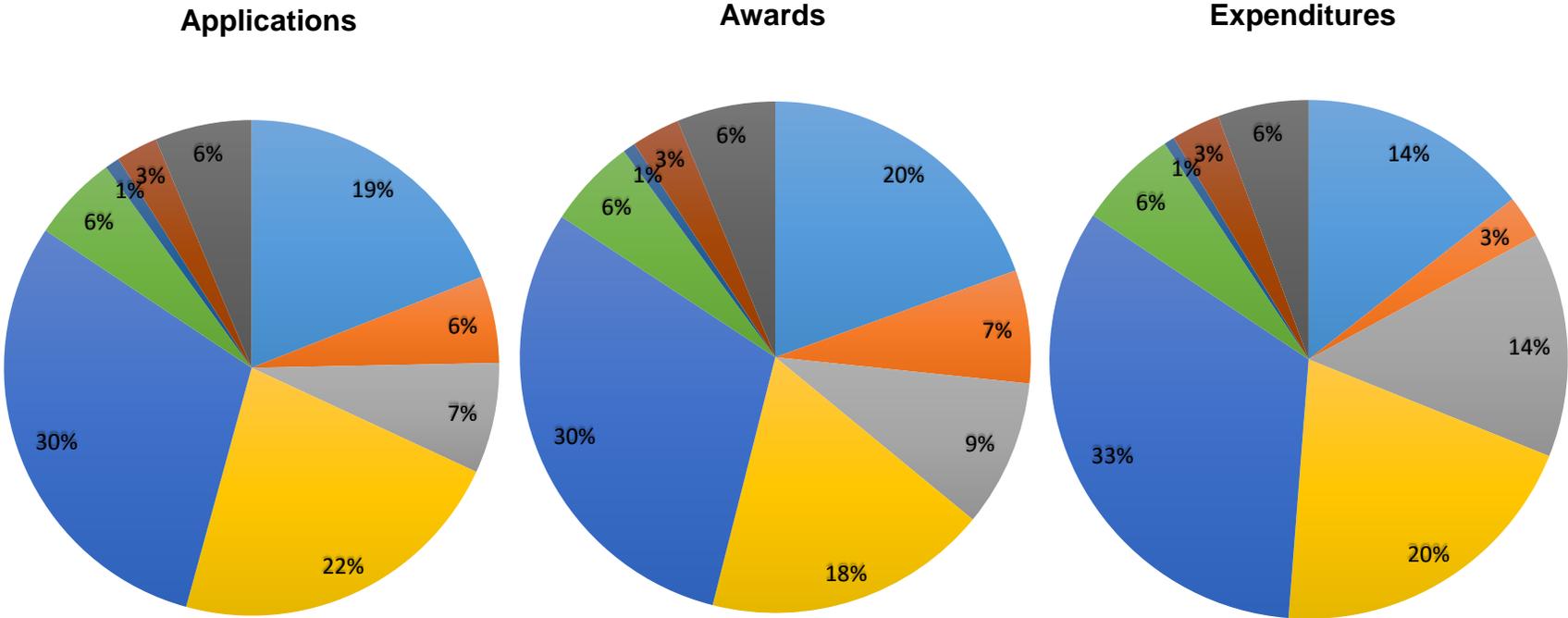
*Source: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018.*

**Table 2: CDBG Activity 2012-13 through 2016-17: Application, Award, and Expenditure Activity (Activity Summary)**

	Application Amount	Award Amount	Expended	Unexpended	Disencumbered
<b>Total Housing (Direct Homeownership, Single and Multi-Family Rehabilitation)</b>	\$51,439,313	\$40,896,230	\$16,723,678	\$11,873,900	\$13,276,922
<b>Total Economic Development Competitive Awards (Projects, Programs and Planning)</b>	\$15,352,564	\$15,031,075	\$3,091,395	\$5,387,097	\$3,499,467
<b>Total Economic Development Over-the-Counter (Projects, Programs and General Administration)</b>	\$19,516,274	\$19,516,274	\$16,280,192	\$2,281,714	\$954,368
<b>Public Facilities (Non-Street Improvements and Non-Water/Sewer)</b>	\$60,521,180	\$37,786,017	\$23,416,063	\$16,777,055	\$672,461
<b>Total Infrastructure Projects</b>	\$81,444,822	\$63,603,826	\$38,480,108	\$21,488,629	\$5,474,508
<b>Public Services Activities</b>	\$15,273,733	\$11,868,605	\$7,257,688	\$2,755,545	\$986,378
<b>Code Enforcement</b>	\$2,568,081	\$1,656,453	\$769,687	\$668,453	\$190,365
<b>Total Planning Only Activities</b>	\$7,371,908	\$6,434,597	\$3,528,165	\$1,639,450	\$416,821
<b>General Administration</b>	\$17,111,141	\$13,097,768	\$6,589,354	\$4,274,564	\$1,791,804
<b>Total all CDBG activities:</b>	\$270,599,016	\$209,890,845	\$116,136,330	\$67,146,407	\$27,263,094

Source: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018.

Figure 1: CDBG Applications, Awards and Expenditures by Activity, 2012/13 through 2016/17



Note: Activities grouped according to categories identified in HCD CDBG NOFAs. Source: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018.

- Total Infrastructure Projects
- Public Services Activities
- Code Enforcement
- Total Planning Only Activities
- General Administration
- Total Housing (Direct Homeownership, Single and Multi-Family Rehabilitation)
- Total Economic Development Competitive Awards (Projects, Programs and Planning)
- Total Economic Development Over-the-Counter (Projects, Programs and General Administration)
- Public Facilities (Non-Street Improvements and Non-Water/Sewer)

**Table 3: CDBG Activity 2012-13 through 2016-17: Application, Award, and Expenditure Activity (Activity Detail)**

<b>Housing:</b>	<b>Application Amount</b>	<b>Awarded Amount</b>	<b>Expended</b>	<b>Unexpended</b>	<b>Disencumbered</b>
Direct Homeownership Assistance	\$17,714,364	\$14,101,312	\$6,593,803 47%	\$3,383,830 24%	\$4,474,395 32%
Total Rehabilitation Activities – Single and Multi-Family	\$33,724,949	\$26,794,918	\$10,129,875 38%	\$8,490,070 32%	\$8,802,527 33%
<b>Economic Development (excluding Over-The-Counter):</b>					
Economic Development Infrastructure	\$2,135,000	\$2,414,070	\$0 0%	\$0 0%	\$0 0%
Economic Development Loans – For or Non-Profit	\$5,307,969	\$5,432,679	\$1,368,529 25%	\$2,055,522 38%	\$1,698,884 31%
Economic Development Microenterprise Loans and Grants	\$2,468,039	\$1,989,944	\$275,457 14%	\$995,734 50%	\$684,330 34%
Economic Development Microenterprise Technical Assistance	\$5,441,556	\$5,194,382	\$1,447,409 28%	\$2,335,841 45%	\$1,116,253 21%
<b>Public Facilities (non-Water/Sewer and Non-Street Improvements):</b>	\$60,521,180	\$37,786,017	\$23,416,063 62%	\$16,777,055 44%	\$672,461 2%
<b>Infrastructure:</b>					
Street Improvements Projects	\$14,262,603	\$9,917,783	\$6,959,236 70%	\$3,890,461 39%	\$395,296 4%
Water/Sewer Projects	\$67,182,219	\$53,686,043	\$31,520,872 59%	\$17,598,168 33%	\$5,079,212 9%

Housing:	Application Amount	Awarded Amount	Expended	Unexpended	Disencumbered
<b>Public Services Activities:</b>	\$15,273,733	\$11,868,605	\$7,257,688 61%	\$2,755,545 23%	\$986,378 8%
<b>Code Enforcement:</b>	\$2,568,081	\$1,656,453	\$769,687 46%	\$668,453 40%	\$190,365 11%
<b>Planning Only:</b>					
Undefined Planning Only Activities	\$4,550,276	\$3,810,944	\$2,254,149 59%	\$571,220 15%	\$345,611 9%
Community Development Planning Only	\$2,119,438	\$1,933,391	\$972,605 50%	\$681,376 35%	\$233,891 12%
Economic Development Planning Only	\$702,194	\$690,262	\$301,411 44%	\$386,854 56%	-\$162,681 -24%
<b>General Administration:</b>	\$17,111,141	\$13,097,768	\$6,589,354 50%	\$4,274,564 33%	\$1,791,804 14%
<b>Total all CDBG activities (excluding Economic Development OTC):</b>	\$251,082,742	\$190,374,571	\$99,856,138 52%	\$64,864,693 34%	\$26,308,726 14%
<p>Percentages in table are calculated as percent of award amount. Excludes Economic Development Over-the-Counter applications and awards. For detailed information about these applications and awards, please see the Supporting Economic Development section of this report. Source: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018.</p>					

## Comparison of Federal and State Regulations and Program Requirements

As a component of the CDBG program redesign effort, SB 106 required HCD to identify requirements previously adopted by the state that are in excess of the minimum federal requirements applicable to eligible activities that, if eliminated, facilitate greater subscription of program funds and reduce state administrative workload.

A comprehensive comparison of federal and state program requirements was provided as part of a contract between HUD and Enterprise Community Partners (Enterprise). Enterprise compared California Code of Regulations (CCR), Title 25, Section 7050 to 7126, the state regulations governing the CDBG program, to 24 Code of Federal Regulations (CFR) Part 570, Subpart I, the federal regulations governing the CDBG program. In addition, Enterprise provided a review of the current HCD policies and procedures found in the CDBG Grant Management Manual, Management Memoranda and Bulletins, NOFA documents, and Checklists of General Conditions. The side-by-side comparison, a cover memorandum to the side-by-side comparison, and a memorandum addressing HCD policies provide additional details and are all attached as Appendix IV.

This section of the report summarizes the most significant areas where changes in state regulations (which will become program guidelines per SB 106 authority) and policy would result in greater expenditure of program funds and a reduction in the state administrative workload.

### Allocations and Awards

#### Set-Asides

Program set-asides are not required pursuant to federal regulations; however, it is common for states to create distinct funding allocations within each CDBG Program Year allocation. California law requires set-asides for certain types of eligible activities and a set-aside for a particular group of beneficiaries:

- A 51 percent set-aside for the purpose of providing or improving housing opportunities, including, but not limited to, the construction of infrastructure [Title 25, Section 7052, and Health and Safety Code (H&SC) Section 50828];
- A 1.25 percent set-aside for areas of concentration of Native Americans (Title 25, Section 7062, and H&SC Section 50831); and
- A 30 percent set-aside for the purpose of Economic Development (Title 25, Section 7062.1, and H&SC Section 50827).

HCD implements the 51 percent set-aside policy by ensuring that this set-aside is met cumulatively in a funding round. Eligible applications for the 1.25 percent Native American set-aside are funded and then any unsubscribed funds are awarded for other activities. For the 30 percent Economic Development (ED) set-aside, eligible applications are awarded funds in response to the competitive NOFA and the remainder is held for ED Over-the-Counter (OTC) applications for 15 months before being awarded for non-ED activities. Currently, ED is the only set-aside that consistently has unawarded funds that are reallocated to other project types in the next funding cycle.

Proposed Change: No change to the set-aside percentages is being proposed. However, the number of months the ED funds are set aside before being awarded for non-ED projects is proposed to be reduced from the current 15 months to 12 months or the next NOFA cycle, whichever comes first. This change would contribute to an increase in the state's expenditure rate because unspent ED funds would more quickly be awarded to other activities. For more discussion of this topic, please see the Economic Development section of this report.

### **NOFA Timing**

Federal regulations do not stipulate the method states must use to announce funding availability and acceptance of applications. Currently, the HCD process for creating the NOFA is complicated, lengthy, and requires a significant amount of staff time to ensure consistency with federal requirements and incorporation of any changes in policy. This is followed by a lengthy review process before awards are announced. Staffing changes over the last several years have further complicated the NOFA process because staff are not experts in the CDBG program.

Many states with a July 1 CDBG Program Year start date (like California) announce estimated funding between November and January before the new Program Year starts, accept and review applications and make conditional awards as early as May, and execute contracts as soon as the HUD Agreement with the state has been executed. This minimizes the delay between when the states receive their new CDBG allocation from HUD and when the funds are awarded and available for expenditure by local jurisdictions. In recent years, HCD's timing of the release of the NOFA, making awards, and executing agreements has varied, resulting in challenges for local jurisdictions and HCD in planning workload and spending funds as quickly as possible.

Proposed Changes: HCD is considering obligating funds earlier in the CDBG Program Year in order to expedite and increase the expenditure of funds. This could be done through an earlier and consistent annual release date for the NOFA, acceptance of applications, and notice of conditional awards as soon as funds are received from HUD. Having a consistent schedule would make workload and project planning easier for both local jurisdictions and HCD as it would be more predictable year to year.

HCD is also proposing to develop a shorter boilerplate NOFA and application, which could be used for each funding cycle with changes only to reflect guideline or policy changes that have occurred since the prior NOFA (in the event they change from year to year), as well as any changes in funding limits, workshop schedules, application deadlines, and special conditions. This would result in a more streamlined process for both local jurisdictions and HCD staff as well as a more predictable application preparation process for local jurisdictions.

### **Award Amounts**

Federal regulations require that states disclose any maximum or minimum allowable grant amounts as part of the Consolidated Plan/Annual Action Plan Update. California regulations mandate specific grant amount thresholds not required by federal regulation. HCD policy also sets caps on the maximum and minimum awards of grant funds by activity type. In some instances, those caps may be too low to be of benefit to a local unit of government.

Proposed Changes: HCD is considering changes to the current allowable minimum and maximum grant amounts. The impact of both limiting the minimum and increasing the maximum allowable grant per activity would be twofold: 1) larger grants would mean fewer grants to be administered by HCD, and 2) larger grant amounts could increase the ability of local governments to participate in the CDBG program because they would not be required to spend as much time seeking additional financing for a project.

HCD is considering making changes to the number of activities per application. This would reduce the amount of time for staff to review applications, clear special conditions, execute contracts, and manage grants.

### **Eligibility Requirements**

Finally, California regulations stipulate certain eligibility requirements for local units of government that are not federally mandated (e.g., housing element compliance, 50 percent expenditure rate, and limits to applications).

Proposed Changes: HCD is looking at all eligibility requirements as a part of the redesign process and development of new program guidelines.

### **Eligible Activities**

Although federal regulations stipulate that states may not make an eligible activity “ineligible,” states may prioritize the funding to meet their particular states’ needs. Most states only fund a portion of the federally eligible activities. Nationally aggregated, state CDBG programs spend their funds on the following activities:

- Public Improvements            55%
- Economic Development        17%
- Housing                            15%
- Administration/Planning      9%
- Acquisition                      3%
- Public Services                 1%

Current state regulations do not limit the eligible activities that may be undertaken with CDBG funds. However, some activities, including fast-spending activities like environmental remediation or demolition, are currently only allowed as a portion of a larger project, not as a stand-alone activity. In addition, supplemental activities are further restricted. For more discussion of supplemental activities, please see the Strategies for Reducing Program Income section of this report.

Proposed Changes: HCD is considering the elimination of some eligible activities, possibly those that are underutilized or do not reflect local or state priorities. Reducing the number of eligible activities could reduce workload for HCD staff and target funds to activities that reflect policy priorities. However, some local jurisdictions cite the flexibility of CDBG funding as one of its key features, as so much other funding is restricted in use or activity. This issue will be explored further in the redesign process. For more discussion on reducing Eligible Activities, please see Appendix VI at the end of this report.

### **Program Income (PI)**

PI presents one of the greatest challenges for both HCD staff and grantees in expending funds effectively and efficiently. While federal requirements direct that excess PI must be returned to the state and reallocated, federal policy also provides the state the authority to determine what level of PI is considered excess and must be returned for reallocation. Federal policy also allows grantees to retain PI funds to continue the same activity and allows for funding draws for separate activity types as long as the grantee will expend the funds in a reasonable time frame, as defined by the state.

HCD’s current interpretation and implementation of federal PI policy has been one of the significant contributors to the state’s low expenditure rate. Currently, HCD PI policy requires grantees to spend all PI on hand prior to receiving any grant funds. Since PI is often generated on a somewhat unpredictable basis, it can be extremely challenging for grantees to comply with this requirement. For more discussion of PI, please see the Reducing PI section in this report.

## General Administration Fees

Federal regulations allow up to 20 percent of the total CDBG allocation to be spent for general administration expenses (both state and local) and planning only activities. The state currently allows up to 7.5 percent of a local jurisdiction's grant award to be used for general administration. Nationally, this amount ranges between 5 percent and 18 percent. Increasing the amount allowable for general administration would increase expenditures. Since some activity types have higher administrative costs, HCD could consider higher general administration amounts for specific activity types that have a heavier administrative burden.

Federal regulations also allow for Activity Delivery Costs (ADCs). ADCs are those allowable costs incurred for implementing eligible CDBG activities (e.g. underwriting or inspection fees). All ADCs are allocable to the CDBG activity, including direct and indirect costs integral to the implementation of the final CDBG activity. There is no federal cap on ADCs although most, if not all, states put some restrictions or cap on the use of these funds.

Proposed Change: HCD will consider increasing the percentage of funds that can be used for general administration in the redesign process and development of new program guidelines. HCD will also consider increasing the allowable ADC per project or program type to ensure that all necessary and eligible costs are reimbursable.

## Additional Requirements

### Procurement

The state adopted federal 24 CFR Part 85 by reference to govern the procurement process for CDBG applicants and grantees. The requirements of Part 85 have since been moved to 2 CFR 200, so there are technical changes required to bring the state into alignment with federal regulations. Additionally, HCD is currently implementing a much stricter interpretation of these regulations than necessary for both Request for Proposal/Request for Qualification (RFP/RFQ) and Conflict of Interest regulations and not all staff appear to implement current HCD procurement policy consistently. In some cases, an RFP/RFQ that received only one response has been labeled a sole-source contract by HCD staff, when in fact it is not a sole-source contract as long as the jurisdiction has documented (1) compliance with procurement requirements, and (2) that multiple contractors are qualified to respond to the RFP/RFQ.

However, prescriptive procurement policies can have some advantages, such as reducing the need and time required for review. Most states implement a consistent procurement policy utilizing sample forms and templates. This approach reduces the burden on both the local jurisdictions to determine the rules and state staff to determine if the process meets federal requirements. Since procurement issues often delay

projects in moving forward, simplifying this policy could increase the state's expenditure rate because grantees could spend funds on project activities more quickly.

Proposed Changes: HCD has recently adopted the federal requirements in 2 CFR Part 200. This change will be included in future revisions to the Grant Management Manual. Additional policy changes in HCD's procurement policy will be considered as part of the redesign process and development of new program guidelines.

## **Financial Management**

Federal regulations allow for the use of Lump Sum draws and Escrow accounts for housing rehabilitation programs that meet the requirements of 24 CFR 570.511 and 24 CFR 570.513. Lump Sum draws and Escrow accounts provide greater access to ready funds at the local level for owner-occupied rehabilitation projects that have been approved and require multiple draws to complete. Although implementing this policy would require additional staff time for both local jurisdictions and HCD, the long-term effect would be fewer draws, with corresponding reductions in workload, and faster expenditure of funds on eligible programs.

Proposed Changes: No changes are currently proposed. Lump Sum draws and Escrow accounts are already allowable by HCD; however, because the loans made by grantees are generally small enough for them to carry, they are seldom used.

## **Record Retention**

Federal requirements specify that all "Records of the state and units of general local government, including supporting documentation, shall be retained for the greater of three years from closeout of the grant to the state, or the period required by other applicable laws and regulations as described in §570.487 and §570.488." HCD currently requires local government records to be kept for five years from the date of the final expenditure report, which is not in compliance with the federal requirements.

Proposed Change: HCD will update all manuals, trainings, policies, and procedures to reflect the three-year retention requirement and bring the state into compliance with federal regulations.

## **Monitoring**

Federal regulations require the state to "make reviews and audits, including on-site reviews, of units of general local government as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the Act." The state must also "take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for units of general local government noncompliance."

The state has been out of compliance with the federal monitoring requirement in recent years.

Proposed Change: HCD will implement a pilot monitoring plan process to oversee local government compliance with federal and state regulations. For more discussion of this topic, please see the Operational and Organizational Changes section of this report.

Please see the following pages for a Comparison of Federal and State Policies Key Proposed Policy Changes.

### Comparison of State and Federal Policies Community Development Block Grant Program Key Proposed Policy Changes

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<p><u>Set-Asides</u>: State law requires that funds be set aside for the following categories:</p> <p>Housing – 50%</p> <p>Economic Development (ED) – 30%</p> <p>Native Americans -1.25%</p> <p>Currently the ED funds are being held for 15 months before being allocated to non-ED activities.</p>	<p>No change to the current set-asides.</p> <p>HCD is proposing a reduction in the length of time before set-aside ED funds are reallocated to non-ED activities from 15 months to 12 months or the next NOFA, whichever comes first.</p>	<p>This change would contribute to an increase in the state's expenditure rate because unspent ED funds would be more quickly awarded to other activities.</p>	Yes	Yes	Low	Neutral (0)	Neutral (0)
<p><u>NOFA Timing</u>: Currently, the CDBG NOFA is released in January (or later) after the July 1 CDBG Program Year start date. This causes the program to always be a minimum of 6 to 8 months behind in obligating and expending funds.</p> <p>The NOFA creation process is extremely cumbersome to HCD staff.</p>	<p>HCD is considering obligating funds earlier in the Program Year through a standardized, streamlined NOFA in January of every year with awards to be made upon receipt of funds from HUD.</p>	<p>This change would contribute to an increase in the state's expenditure rate by ensuring that funds are awarded much earlier in the Program Year.</p>	Yes	Yes	Low	Slightly Less (-1)	Neutral (0)
<p><u>Award Amounts</u>: HCD sets caps on the maximum and minimum award level.</p>	<p>HCD is considering limiting the minimum and increasing the maximum allowable grant per activity.</p>	<p>This change would mean fewer grants to be administered by HCD, and possibly an increase in local jurisdictions' ability to participate in the program because of less time spent seeking additional financing.</p>	No	Yes	Low	Slightly Less (-1)	Slightly Less (-1)

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<p><u>Eligibility Requirements:</u> State regulations stipulate some additional eligibility requirements for applicant jurisdictions.</p>	HCD is considering all eligibility requirements as part of the redesign process and development of new program guidelines.	Changes to eligibility requirements need further exploration to determine their impact on expenditures, workload and program effectiveness.	No	No	Low	Neutral (0)	Neutral (0)
<p><u>Eligible Activities:</u> Currently, the state does not limit the eligible activities that may be funded.</p> <p>Most states only fund a portion of the federally eligible activities.</p>	HCD is considering eliminating some eligible activities, possibly those that are underutilized or do not reflect local or state priorities.	Eliminating some eligible activities could reduce workload for HCD staff and target funds to activities that reflect policy priorities.	No	Yes	Low	Slightly Less (-1)	Slightly Less (-1)
<p><u>General Administration (GA) Fees:</u> Currently, HCD allows up to 7.5 percent of a local jurisdiction's grant award to be used for GA.</p> <p>Nationally, GA ranges from 5 percent to 18 percent.</p>	HCD is considering higher GA levels for certain types of activities that have a heavier administrative burden. HCD is also considering increasing the Activity Delivery Cost for activity types.		No	No	Low	Neutral (0)	Neutral (0)
<p><u>Procurement:</u> HCD is currently implementing a much stricter interpretation than required by federal regulation for both Request for Proposal/Request for Qualification and Conflict of Interest compliance.</p> <p>Most states implement a consistent procurement policy utilizing sample forms and templates.</p>	HCD recently adopted the federal requirements at 2 CFR Part 200 to bring the state into compliance with federal regulations. HCD is considering implementing a procurement policy similar to that of other states as part of the redesign process and development of new program guidelines.	This change would reduce the burden on both local jurisdictions to figure out the rules and state staff to determine if the process meets federal requirements. Since resolving procurement issues can delay projects moving forward, simplifying this issue could increase the state's expenditure rate because grantees could more quickly expend funds on project activities.	No	Yes	Medium	Less (-2)	Less (-2)

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<p><u>Record Retention:</u> Currently, HCD is requiring local governments to keep records for five years.</p> <p>Federal requirements are for a maximum of three years.</p>	HCD is proposing to update materials and trainings for staff and local governments to reflect the three-year retention requirement.	This change would bring HCD into compliance with federal regulations.	No	No	Low	Neutral (0)	Neutral (0)
<p><u>Monitoring:</u> HCD is not currently complying with federal monitoring requirements. This issue was discussed in the March 12, 2018 HUD Monitoring Report.</p>	HCD is implementing a new monitoring plan in response to the HUD Monitoring Report.	This will bring HCD into compliance with federal monitoring requirements. It will have workload impacts on both local jurisdictions and the state.	Yes	No	High	More (+2)	Slightly More (+1)

## Promising Practices from Other States and Jurisdictions

The non-entitlement CDBG program was designed to provide maximum flexibility to states in implementing their CDBG programs while remaining in compliance with federal CDBG requirements. Due to this flexibility and the diverse priorities of individual states, reviewing how high-performing states<sup>11</sup> operate their programs provides an opportunity to identify a variety of strategies for improving expenditures and reducing unspent PI. As part of the CDBG program redesign process, HCD reviewed the CDBG operational and administrative processes in six high-performing states – Ohio, Vermont, Connecticut, Louisiana, Nevada, and Iowa – specifically identifying strategies for timely expenditure of funds, monitoring practices, planning activities, and PI policies.

Table 4 provides a comparison of key features of these state programs. Table 5 shows these six high-performing states' expenditure rate standing in comparison to California's, based on data from HUD released in April 2018. A detailed description of these states' operations is included in this report as Appendix V.

Additionally, a profile of the Los Angeles (LA) County CDBG program is included in this section as a California-based illustration of promising practices that HCD could consider in redesigning the CDBG program, as resources allow. Table 6 provides a comparison of the LA County CDBG program with the California non-entitlement CDBG program. For the complete profile of the LA County CDBG program, please see Appendix VI.

### Promising Practices from Six High-Performing States

The analysis of these high-performing states' CDBG program operations leads to the following conclusions:

- The earlier in the annual Program Year applications are accepted and funds are awarded, the more quickly grant funds are drawn;
- Readiness factors such as threshold and/or scoring requirements mean projects begin sooner and expend funds more quickly;
- Allowing the reimbursement of properly procured pre-agreement costs increases the speed of expenditures;
- Fewer and higher dollar grant awards expend funds more quickly;
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<sup>11</sup> HUD generally considers a state to be high performing when its balance of unexpended CDBG grants funds is no more than 2.5 times its most recent CDBG allocation and its average monthly expenditure rate is 1.0 or greater (equaling 1/12 of the annual allocation amount). These states are in the top 1/3 of the expenditure ranking because more than half the states are above 2.0.

- High levels of training and technical assistance reduce staff time on questions and problem resolution; and
- Grant Management information technology systems can reduce administrative costs and enhance communications with grantees

Each of these states is unique and not comparable in size—in either population or geography—to California. However, these states have demonstrated success in operating their CDBG programs and have implemented policies and procedures that could, at least in part, be replicated in California and could contribute to an increase in the state's expenditure rate and a reduction of unspent PI. Additionally, some of these practices could have positive effects on workload for both local jurisdictions and HCD. These practices will be considered further in the redesign process and the development of new program guidelines.

**Table 4: Promising Practices State Summary**

	OH	VT	CT	LA	NV	IA	CA
<b>Program Funding / Eligibility Overview</b>							
2017-2018 HUD Allocation (new funds)	\$40.7 million	\$6.9 million	\$12 million	\$19.7 million	\$3.3 million	\$21.5 million	\$27 million
Program Year Start Date	July 1	July 1	July 1	April 1	July 1	January 1	July 1
Application Due Date	May before	April before	April before	July after	January before	January 1	TBD
General Admin Retained (matched)	2.2%	2%	2%	2%	2%	2%	3%
TA Retained (does not require match)	0.6%	1%	1%	1%	1%	1%	0%
How are Funds Disbursed	Combination	Rolling	Annual Competition	Competitive	Annual Competition	Combination	Combination
Eligible Participants	600 Non-entitlements	250 Non-entitlements	155 Non-entitlements	>300 Non-entitlements	27 Non-entitlements	>600 Non-entitlements	163 Non-entitlements
CDBG Eligible Activities Offered	All	Limited	Limited	Limited	All	Limited	All
Program Income	Retained by jurisdiction	½ Retained by jurisdiction	Retained by jurisdiction	Retained by jurisdiction	Retained by jurisdiction	Returned to State	Retained by jurisdiction
Pre-Agreement Costs Allowable	Yes	Yes	Yes	Yes	No	No	No
Threshold Readiness Requirements	Yes	Yes	Yes	Yes	Scoring	Scoring	No
Set-Asides	Yes	Yes	No	Yes	No	Yes	Yes

Operational Overview							
Dedicated CDBG Staff <sup>12</sup>	13 Dedicated + 1 FTE <sup>13</sup>	8 Dedicated +2 FTE	3 Dedicated + 6 FTE	9 Dedicated + 4 FTE	2 Dedicated + 2 FTE	8 Dedicated + 1 FTE	11 FTE
Active Projects	300	71	>100	140	>50	157	Unavailable
Average # Grants/Contracts per year	140	25	20	45	18	60	Unavailable
Average % of Contracts Requiring Amendment	25%	40%	15%	10%	<10%	0%	Unavailable
Reporting Frequency	Annually	Semi-Annually	Semi-Annually	Annually	Quarterly	Per Draw/Quarterly	Annually - Proposed
How are reports and forms submitted	On-line System	On-line System	E-mail Word	Hard Copy Mailed	Excel	Word	Excel
Provide Ongoing Training	Quarterly	Annually	Yes	Annually	No	3-5 Annually	No
Provide Ongoing Technical Assistance	Yes	Yes	Yes	Yes	Yes	Yes	No

<sup>12</sup> Does not include ancillary staff (IT, facilities, legal, administrative, etc.).

<sup>13</sup> Dedicated means staff who work full time on the CDBG program. FTE (full-time equivalent) means the total number of hours equal to full time that a number of individuals work on the CDBG program. The actual number of staff working on the program may be greater.

**Table 5: Expenditure Rates for California and High-Performing States<sup>14</sup>**

State	Total Unexpended from Open Grants	Most Recent Grant Amount	Ratio Unexpended To Grant	Program Year Start	Current Program Year Start
<b>8 LOW-PERFORMING STATES</b>					
CALIFORNIA	\$132,901,750	\$27,488,951	4.83	Jul	7/1/17
NORTH CAROLINA	\$172,894,492	\$43,391,053	3.98	Jan	1/1/18
FLORIDA	\$93,660,197	\$24,176,468	3.87	Jul	7/1/17
ARKANSAS	\$57,551,374	\$15,947,251	3.61	Jul	7/1/17
MISSOURI	\$69,867,829	\$20,328,096	3.44	Apr	4/1/18
OREGON	\$40,749,425	\$11,978,330	3.40	Jan	1/1/18
WISCONSIN	\$80,559,373	\$24,391,621	3.40	Apr	4/1/18
MICHIGAN	\$100,967,251	\$30,967,266	3.30	Jul	7/1/17
<b>15 HIGH-PERFORMING STATES</b>					
IOWA	\$49,318,056	\$21,527,996	2.30	Jan	1/1/18
LOUISIANA	\$36,831,111	\$19,678,475	1.99	Apr	4/1/18
VERMONT	\$11,679,758	\$6,282,652	1.87	Jul	7/1/17
ALASKA	\$4,733,394	\$2,628,989	1.86	Jul	7/1/17
ARIZONA	\$18,707,379	\$10,487,774	1.80	Jul	7/1/17
ALABAMA	\$37,198,549	\$21,398,440	1.78	Apr	4/1/18
CONNECTICUT	\$20,038,480	\$12,105,315	1.74	Jul	7/1/17
KANSAS	\$22,190,464	\$13,650,232	1.66	Jan	1/1/18
OHIO	\$65,796,577	\$40,770,896	1.63	Jul	7/1/17
MASSACHUSETTS	\$47,493,659	\$29,757,361	1.61	Apr	4/1/18
NEW HAMPSHIRE	\$11,473,205	\$8,022,548	1.60	Jan	1/1/18
MAINE	\$13,268,781	\$10,606,496	1.43	Jan	1/1/18
NEVADA	\$4,046,074	\$3,263,851	1.25	Jul	7/1/17
UTAH	\$4,184,271	\$4,868,432	1.24	Jul	7/1/17
DELAWARE	\$1,282,195	\$2,015,390	0.86	Jul	7/1/17
<b>Average Expenditure Rate</b>			2.62		

<sup>14</sup> HUD generally considers a state to be high performing when the available balance in its CDBG treasury account is no more than 2.5 times its most recent CDBG allocation and its average monthly expenditure is 1.0 or greater (equaling 1/12 of its annual allocation amount).

## Promising Practices from Los Angeles County CDBG Program

Los Angeles (LA) County is an entitlement recipient of federal CDBG program funding. This means it receives a direct allocation from HUD, rather than participating in the state program administered by HCD. On behalf of LA County, the Los Angeles Community Development Commission (LACDC), with a full-time staff of 16, serves a population of 2,378,796. This makes the LA CDBG program the largest Urban County CDBG program in the nation. The LACDC receives approximately \$21 million annually in CDBG funds,<sup>15</sup> of which it retains 20 percent (\$5 million) for program administration. The remaining \$16 million is distributed using an allocation formula to 47 participating cities (PCs) and five Supervisorial Districts (Districts) for eligible Community Development activities. Economic Development is funded through a Revolving Loan Fund rather than directly with CDBG funds. All Program Income (PI) is remitted by grantees to the LACDC within 30 days of receipt of funds and is then credited to that grantee's funding pool. At the time a funding request is submitted for reimbursement, the LACDC pays it with any PI on hand prior to drawing down any CDBG funds.

To distribute CDBG funds, LACDC adopted HUD's allocation method established in 1975, which yields an approximate 50/50 split between the 47 PCs and the five Districts. Each District reviews funding requests for Community Development activities submitted by community-based organizations, County departments, and LACDC. Once the Districts select the activities they want to fund, the funded activities are made part of the One-Year Action Plan that is approved by the Board of Supervisors for submission to HUD.

Entitlement recipients have a three-year CDBG expenditure requirement. HUD's expenditure requirement means grantees must have no more than 150 percent (equal to 1.5 years) of the annual allocation on hand as of April each year to be in compliance with the requirement. The LACDC consistently operates the program within HUD's expenditure requirement. For the three-year period 2015-16 through 2017-18, its expenditure rates were 145 percent (1.45 years), 143 percent (1.43 years), and 147 percent (1.47 years), respectively. The LACDC processes a large number of reports and stays proactively engaged with grantees and stakeholders, while maintaining the CDBG program in compliance with HUD's requirements for timely expenditure of funds and low PI balances.

This success is attributed to the following three critical factors:

- Online Grant Management System: To proactively administer and operate the CDBG program, the LACDC provides one-on-one, ongoing planning, comprehensive training, technical assistance, and monitoring to all grantees.

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<sup>15</sup> In comparison, the state of California receives approximately \$27 million annually for the state CDBG program.

This one-on-one approach is made possible because of its CDBG Online Grant Management System. The system allows both grantees and LACDC staff to easily upload, manage, modify, and store program and project data.

- Proactive Planning: The LACDC implements an annual planning process in which CDBG program staff work closely with grantees to proactively plan and develop projects in a process that starts in September for the upcoming Program Year, July 1 to June 30. This nine-month planning process ensures that grantees develop activities that are in a strong position to be implemented on July 1 each year (or as soon as HUD allocates funds) and timely expenditure of grant funds.
- Ongoing Technical Assistance and Monitoring: The LACDC's In-Progress Monitoring (IPM) approach is a proactive and interactive process that identifies potential problems early on. This process incorporates instructional training, ongoing technical assistance, routine site visits, quarterly reporting, and annual monitoring. This approach brings together programmatic and financial resources within a Grant Management Unit (GMU) using a standardized risk assessment to determine the degree of required monitoring.

Because it is an entitlement recipient, LACDC has access to a much larger proportion of CDBG funding to support effective operation of the program. It uses these funds to provide 16 full-time staff who implement the program. Additionally, the decisions LA County has made regarding the funding of ED activities and management of PI may support its success in complying with HUD requirements while providing CDBG funding for an array of Community Development activities.

As HCD continues to redesign the state CDBG program, it would benefit from consulting with LACDC further to explore the feasibility of adopting some of these approaches within the more limited resources available for implementing the non-entitlement program.

**Table 6: Comparison between Los Angeles County (LA) CDBG Program and State CDBG Program Administered by HCD**

	LA	HCD
<b>Program Funding / Eligibility Overview</b>		
Expenditure Rate <sup>16</sup>	147 percent; 1.47 years	475 percent; 4.75 years
2017 HUD Allocation (new funds)	\$21.5 million	\$27 million
Amount Retained for Program Administration	20 percent	3 percent
2017 Notice of Available Funding	\$21.5 million	\$35 million
How Funds are Disbursed	Formula Allocation	Competitive Applications and Over the Counter (Economic Development only)
Eligible Participants	Participating Cities (47) Supervisorial Districts (5) <sup>17</sup>	Non-entitlement jurisdictions (163)
CDBG Eligible Activities Offered	All Community Development activities (57) No current funding is allocated for Economic Development activities	Currently: All (63) Proposed: Limited (26)
Program Income <sup>18</sup>	Remitted to LACDC <sup>19</sup>	Retained by jurisdiction
<b>Operational Overview</b>		
Staff	16 dedicated staff	11 full-time equivalent
Open Activities (cumulative)	221	350
Contracts and Amendments Processed (last 12 months)	364	45
Reports Reviewed (last 12 months)	1,456 (quarterly and annual)	90 (annual reports)

<sup>16</sup> Expenditure rate is based on HUD’s 150 percent expenditure rule which means that a grantee cannot have more than 150 percent or 1.5 years of annual funding available to be in compliance.

<sup>17</sup> Community-based organizations, County departments and LACDC receive funding from the Supervisorial Districts’ approved activities.

<sup>18</sup> Remitted PI is retained by the LACDC and kept in each grantee’s funding pool. It is expended prior to grant funds being dispersed to the grantee. If PI is not spent by end of program year, the grantee’s upcoming allocation will be reduced by that amount and the unused grant funds reallocated to eligible activities.

<sup>19</sup> LACDC – Los Angeles Community Development Commission, administers the CDBG program on behalf of Los Angeles County.

	LA	HCD
Reporting Frequency	quarterly and annually	Currently: semi-annually and annually Proposed: annually
How Applications, Reports, and Forms are Submitted	CDBG Online Grant Management System	Excel Form-based
Standardized Risk Assessment	Yes, at minimum annually	No
Monitoring Frequency	Annually	Currently: None Proposed: Annually
Types of Monitoring	Full: On-site Limited: Desktop	Currently: None Proposed: On-site
<b>Operational Overview – continued</b>		
Who is Monitored	All grantees	Currently: None Proposed: All grantees
Planning, Training, and Technical Assistance Provided	Yes: Ongoing, annual cycle, and grantee-specific	Yes: Limited to several workshops and webinar when new Notice of Funding Availability issued

## Strategies to Increase Expenditures

From a fiscal perspective, California has the equivalent of 4.83 years of federal CDBG grant funds (over \$94 million, as of May 2018) sitting in the U.S. Treasury, not including the approximately \$20 million in PI on hand at the local level. The unspent federal grant funds have been awarded to local jurisdictions (with the exception of the current year's ED set-aside balance and the anticipated 2017 grant awards), but have not been expended by grantees. This situation poses a serious problem because these funds are not benefiting the communities they are intended to support and such large amounts of unspent funds contribute to California's low CDBG expenditure rate. HUD's current general guidance is that grantees should have no more than 2.5 years of unspent federal grant funds on hand.

Table 7 shows expenditure rates for different activities for awards executed in fiscal years 2012-13 through 2016-17. Comparing rates within each year, higher expenditure rates are shaded more darkly and lower expenditure rates are shaded more lightly.<sup>20</sup> Table 8 shows the distribution of jurisdictions' expenditure rates, by percentile, for contracts executed in fiscal years 2012-13 through 2016-17.<sup>21</sup> The average expenditure rate across jurisdictions for contracts executed in fiscal year 2012-13 is 72.5 percent, while for 2016-17 it is 9.5 percent.

As expected, older grants have a higher expenditure rate than more recent grant awards. Comparing the distribution of expenditure rates across activities (Table 7) to the distribution of expenditure rates across jurisdictions (Table 8), it appears that low expenditure rates are a problem for certain activities, rather than for certain jurisdictions. For older contracts, the jurisdiction-level expenditure rates are fairly high. In contrast, for some activities (e.g., ED activities funded through the competitive NOFAs and Housing Assistance), the expenditure rates are consistently lower, even for the older contracts.

HUD is updating its reports to reflect all states' compliance or non-compliance with this timeliness requirement. California's data will not reflect well on the CDBG program's success at expending funds and the state could be at risk of having funds recaptured. Excessive unspent funds could be used by Congress to justify a cut or full elimination of the program. CDBG program redesign must address both California's low expenditure rates and the amount of unspent PI on hand in local jurisdictions.

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<sup>20</sup> Specifically, the shading represents the quartile distribution within each fiscal year. The bottom 25 percent of expenditure rates in each year are unshaded, the next 25 percent are shaded light blue, the next 25 percent are shaded medium blue, and the highest 25 percent are shaded dark blue. The percentile cutoffs are calculated separately for each fiscal year.

<sup>21</sup> The way to understand Table 8 is in fiscal year 2012-13, 10 percent of jurisdictions have expenditure rates below 8.2 percent, half of jurisdictions have expenditure rates below 86.2 percent (and half have expenditure rates above 86.2 percent), and so on.

Equally important, these unexpended funds represent programs and projects that could be providing important benefits to residents and communities in local jurisdictions throughout the state. California’s CDBG program must be redesigned so that the use of grant funds addresses the unmet needs of low- and moderate-income individuals and households in the predominately rural, eligible jurisdictions. In addition, the CDBG program needs to better reflect key state priorities and more effectively facilitate national promising practices in areas like climate adaptation and community revitalization.

**Table 7: CDBG Grant Performance 2012-13 through 2016-17: Award Expenditure Rates**

	2012-13	2013-14	2014-15	2015-16	2016-17
<b>Housing:</b>					
Direct Homeownership Assistance	71.1%	37.3%	58.1%	40.1%	1.6%
Total Rehabilitation Activities – Single and Multi-Family	61.1%	37.7%	40.6%	4.2%	1.5%
<b>Economic Development - Over the Counter:</b>					
Economic Development Infrastructure					25.8%
Economic Development Non-Infrastructure*	100.0%	97.2%	92.5%	52.7%	
General Administration	94.1%	60.0%	100.0%	0.5%	34.9%
<b>Economic Development - Competitive NOFA:</b>					
Economic Development Infrastructure		0.0%		0.0%	
Economic Development Loans – For or Non-Profit	46.4%	30.7%	15.1%	0.0%	0.0%
Economic Development Microenterprise Loans and Grants	28.7%	45.5%	0.0%	0.0%	2.8%
Economic Development Microenterprise Technical Assistance	30.7%	22.1%	35.5%	0.0%	17.1%
Public Facilities (Non-Street Improvements and Non-Water/Sewer)	108.1%	102.1%	76.4%	23.2%	7.1%
<b>Infrastructure:</b>					
Street Improvements Projects:	52.9%		99.0%	52.1%	
Water/Sewer Projects:	74.3%	75.6%	78.8%	23.0%	11.6%
Public Services Activities:	83.6%	64.2%	66.8%	47.0%	23.9%
Code Enforcement:	68.4%		53.3%	52.7%	9.5%
<b>Planning Only:</b>					
Undefined Planning Only Activities		60.2%	61.8%		21.3%

	2012-13	2013-14	2014-15	2015-16	2016-17
Community Development Planning Only	61.6%			46.3%	7.2%
Economic Development Planning Only	65.9%			0.0%	0.0%
General Administration	71.3%	56.8%	59.6%	31.2%	15.5%
Total all CDBG activities:	72.5%	73.8%	63.2%	29.9%	9.5%

*\*includes nonresidential historic preservation, direct financial assistance to non-profits, microenterprise loans and grants, microenterprise technical assistance, and microenterprise general support.*

*Blank entry means no awards made in the category for the fiscal year.*

*Source: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018*

**Table 8: CDBG Grant Performance 2012-13 Through 2016-17:  
How are jurisdiction expenditure rates distributed?**

Distribution	2012-13	2013-14	2014-15	2015-16	2016-17
Minimum	0.0%	0.0%	0.0%	0.0%	0.0%
10th percentile	8.2%	0.0%	5.4%	0.0%	0.0%
25th percentile	51.7%	47.6%	28.0%	0.0%	0.0%
50th percentile	86.2%	82.7%	63.6%	11.0%	0.0%
75th percentile	98.0%	96.4%	93.7%	62.0%	11.9%
90th percentile	100.0%	100.0%	99.4%	73.7%	24.9%
Maximum	100.0%	120.0% <sup>22</sup>	100.0%	82.3%	97.9%
<b>Average:</b>	72.5%	73.8%	63.2%	29.9%	9.5%

*Source: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018.*

<sup>22</sup> The total award exceeds the allocation most likely due to PI funds.

As noted earlier in this report, CDBG funds are made available through the publication of a NOFA. After publication of the NOFA, HCD holds workshops throughout the state providing additional clarification and information about what is required in an application and how applications are reviewed and ranked for funding. In an effort to increase the rate by which CDBG funds are expended and decrease administrative complexity, HCD is proposing changes to the timing and design of the NOFA and strengthening the pre-application considerations, up-front actions, and application requirements to show readiness and capacity to spend the funds, if awarded.

Table 9 summarizes proposed strategies for increasing expenditures and evaluates whether they address the goals of CDBG program redesign.

**Table 9: STRATEGIES FOR INCREASING EXPENDITURES THROUGH CDBG PROGRAM REDESIGN: Key Policy Changes**

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<p><u>Pre-Agreement Costs</u>: HCD does not allow reimbursement of pre-agreement costs so that grantees often do not start the process of completing the general conditions, including design, financing, and procurement of consultants, until after award.</p>	<p>HCD is proposing allowing reimbursement of pre-agreement costs to expedite completion of general conditions and the implementation of the activity upon award, at the risk of the applicant jurisdiction.</p>	<p>This change would allow grantees to undertake (and be reimbursed for) pre-agreement steps (such as environmental review) on all exempt activities, at their own risk, until final clearance of the General Conditions Checklist. This would allow grantees to implement activities soon after award, which would increase the state's expenditure rate.</p>	<p>No</p>	<p>Yes</p>	<p>Low</p>	<p>Neutral (0)</p>	<p>Neutral (0)</p>
<p><u>Planning Only Grants</u>: HCD does not currently allow Planning Only grants to determine feasibility of a proposed activity.</p> <p>If a project is determined to be infeasible after award has been made, HCD currently allows grantees to modify the project through a reduction in scope or other modification using a contract amendment or extension instead of de-obligating and reallocating the awarded funds.</p>	<p>HCD is proposing allowing and encouraging Planning Only grants to complete certain readiness activities before large amounts of Treasury funds are obligated.</p>	<p>This change would reduce the number of projects that either 1) take a protracted time to complete because of time required to complete pre-implementation activities, or 2) fail to move forward at all. This change would increase the state's expenditure rate and reduce workload to the extent project modifications and contract changes decline.</p>	<p>No</p>	<p>Yes</p>	<p>Low</p>	<p>Slightly Less (-1)</p>	<p>Slightly Less (-1)</p>

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<u>Method of Distribution (MOD) and NOFA Frequency:</u> Currently, a competitive NOFA is published annually and no formula allocation is used.	No change to the current MOD or frequency of NOFAs.	There are serious flaws with alternative approaches, and it cannot be demonstrated that other approaches would result in increased expenditures or administrative efficiencies.	No	No	Low	Neutral (0)	Neutral (0)
<u>NOFA Timing:</u> Prior to 2016, the CDBG NOFA was published in January each year, approximately six months after receipt of funds from HUD. Over the past two years, the NOFA has been published at an even later time—May 2016 and September 2017, making it even more difficult for the state to comply with the HUD requirement that all funds be obligated within 15 months of receipt.	HCD is considering obligating funds earlier in the Program Year through a standardized, streamlined NOFA in January of every year with awards to be made upon receipt of funds from HUD.	This change would contribute to an increase in the state's expenditure rate by ensuring that funds are awarded much earlier in the Program Year.	Yes	Yes	Low	Neutral (0)	Neutral (0)
<u>NOFA Development:</u> The current NOFA is complicated and lengthy and requires careful staff work to ensure continued accuracy and compliance with federal requirements and incorporation of changes in policy. There is a lengthy internal review process before publication.	HCD is considering developing a streamlined, boilerplate NOFA that could be used for all future NOFAs with minimal revision.	This change would result in a more expedited NOFA development and publication process, resulting in greater administrative efficiency.	No	Yes	Low	Less (-2)	Slightly Less (-1)
<u>Growth Control Measures:</u> In order to be eligible, a jurisdiction must not have in place any growth control measures. Department staff are required to confirm this fact, which can require extra work by Department staff.	HCD is proposing requiring the No Growth Control Measures confirmation to be made a part of the Resolution required to be submitted with the application.	This change would result in administrative efficiencies and a reduction in HCD staff time during application evaluation.	No	No	Low	Slightly Less (-1)	Slightly More (+1)

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<u>50 Percent Rule</u> : Currently, an applicant is ineligible to apply for or receive a CDBG grant unless the applicant has expended at least 50 percent of CDBG funds awarded in 2012 or later. The HCD Director may waive the rule, thus making an applicant eligible to apply for and receive CDBG funds.	HCD is proposing to allow an applicant wishing to apply for new grant funds to voluntarily disencumber funds previously awarded prior to the application deadline if the project for which they were awarded is stalled or becomes infeasible.	This change would allow jurisdictions to apply for funding without having to request a waiver. This would ensure funds would be either expended more quickly or returned without delay for making additional awards, increasing the state's expenditure rate and reducing workload.	Yes	Yes	Low	Slightly Less (-1)	Slightly More (+1)
<u>Readiness</u> : Currently, readiness for a program can be adopted guidelines. Readiness for a project can include a funding commitment from other sources; a project budget, scope of work, and schedule; evidence of procurement for architectural and/or engineering services; preliminary project plans; and list of local permits.	HCD is proposing to simplify and strengthen readiness requirements. Threshold readiness criteria will be further refined as part of the redesign process and development of new program guidelines. In order to enhance the likelihood of more timely expenditure of funds and to reduce administrative complexity at the same time, HCD proposes to require as a threshold criterion for a program, adopted guidelines; and for a project, at least site control and a funding commitment.	This change would increase the likelihood of a more timely expenditure of funds, increasing the state's expenditure rate, and reduce workload and administrative complexity.	No	Yes	Low	Slightly Less (-1)	Neutral (0)
<u>Timely Reporting</u> : CDBG deducts points for missing semi-annual and annual Program Income reports.	HCD is proposing to make timely submittal of the prior two annual reports a threshold requirement for applications. If an	This change would increase HCD's ability to fully comply with HUD's reporting requirements.	Yes	Yes	Low	Neutral (0)	Neutral (0)

	applicant has not participated in the CDBG program previously, the applicant will not be rejected based on this criterion.						
<u>Capacity:</u> Currently, the capacity of an applicant is considered in the rating and ranking of applications.	HCD is proposing to make capacity a threshold criterion with demonstrated capacity required before an application would be considered for funding.	This change could result in fewer applications moving past threshold for evaluation with stronger applications and subsequent awards for projects and programs more likely to successfully implement grant-funded activities, increasing the state's expenditure rate.	No	Yes	Low	Slightly Less (-1)	Neutral (0)
<u>Application Processing:</u> Currently, HCD provides an appendix to the application that can be used by applicants to determine their approximate rating score, but it is voluntary and does not affect the application review process.	HCD is proposing to develop a self-scoring application and require all applicants to complete the scoring process as part of their application.	This change would reduce staff workload and could result in funding activities that would be more successful, increasing the state's expenditure rate.	No	Yes	Medium	Slightly Less (-1)	Slightly More (+1)
<u>Post-Award Considerations:</u> Currently, HCD does not include performance milestones that specify circumstances in which grant funds will be disencumbered.	HCD is establishing performance milestones identifying progress toward successful completion in standard agreements, and will disencumber funds if milestone deadlines are missed unless the delay is not the fault of the grantee and the activity continues to be feasible.	This change will slightly increase staff workload, while also increasing the state's expenditure rate by more quickly reallocating funds to projects that are ready to be implemented.	Yes	Yes	Medium	Slightly More (+1)	Slightly More (+1)

## **Pre-Agreement Costs**

HCD currently requires grantees to complete a General Conditions Checklist (per project type) prior to release of funds. The time to complete the general conditions is often protracted since applicants are reluctant to risk expending funds to complete the work necessary to clear the conditions in advance of an award. That means grantees often do not start the process of completing the general conditions, including design, financing, and procurement of consultants, until after award. One possible strategy for encouraging applicants to have completed these conditions sooner is by allowing/reimbursing pre-agreement costs or requiring a local funding match.

Proposed Change: HCD proposes allowing/reimbursing pre-agreement costs and/or requiring a local match to expedite completion of general conditions so that the applicant can enter into a contract with HCD and implement the activity soon after award. That approval would allow the grantee to undertake (and be reimbursed for) pre-agreement steps (such as environmental review) on all activities at their own risk until final clearance of the general conditions.

## **Planning Only Grants**

As stated above, many grantees do not begin steps such as design, environmental review, and financing until after award. Frequently it only becomes apparent the proposed activity is not feasible as planned after the award has been made. HCD currently allows the grantee to modify the project through a reduction in scope, a contract amendment, and sometimes a contract extension instead of de-obligating and reallocating the awarded funds. It is presumed that having to start over with a completely new activity would delay the timeline and have a negative impact on the rate of expenditures. However, these changes in scope, contract amendments, and contract extensions also delay a project's timeline and have a negative impact on the state's expenditure rate. They also add workload for both local jurisdictions and the state.

Proposed Change: HCD proposes allowing and encouraging the use of Planning Only grants to complete certain readiness activities before large amounts of Treasury funds are obligated. As an example, the cost of the Environment Review Record (ERR) in California is frequently substantially higher than in many areas of the country. Allowing Planning Only grants that include the completion of the ERR would mitigate this burden for the grantee and reduce the amount of obligated funds reserved for projects that have a long lead time before implementation while pre-implementation activities are completed. This would also reduce the workload for both local jurisdictions and HCD if the number of post-award modifications is reduced, which would be expected.

## Method of Distribution and NOFA Frequency

Other states allocate CDBG funds in a variety of ways, including formula allocation, competitive allocation, combination of formula and competitive allocation, alternate years of formula and competitive allocation, and various iterations of these approaches. Early in the process of CDBG redesign and prior to the passage of SB 106, there was some discussion within HCD about the possibility of changing the Method of Distribution (MOD) and frequency of publishing NOFAs, including the possibility of doing a part-formula and part-competitive allocation as well as doing a two-year NOFA instead of an annual one. Both approaches were initially identified as strategies thought to reduce the workload at HCD and increase expenditures. After much consideration and conversations with other states, CDBG experts, and knowledgeable CDBG users, HCD has concluded that these approaches would not reduce the workload of HCD staff nor result in the increased expenditures that were expected.

Awarding CDBG funds through a formula allocation would not be effective in California because:

- The amounts received by each jurisdiction would typically not be adequate to implement an activity without amassing a few years of funding in order to do something significant;
- Allocating funds through a formula would result in a greater administrative burden for HCD because all 163 local jurisdictions would likely participate, increasing the number of awards and contracts staff must execute and monitor; and
- Once implemented, any changes to the MOD would be very disruptive for local jurisdictions, as they would have planned their activities based on an ongoing and consistent funding source.

Similarly, while a two-year NOFA cycle appears on the surface to reduce workload because the NOFAs, applications, awards, and contracts would be less frequent, upon closer consideration this approach has some serious flaws. One issue is the delay in funding the applications that do not receive awards in the first year. In the first year of the NOFA, the highest-rated applications would be funded. This could mean that the lower-rated applications, which would be funded in the second year, might be less ready by then as financial commitments or other readiness factors decrease due to the time delay. This could make it more difficult for these jurisdictions to successfully expend grant funds quickly. In addition, the applications to be funded in the second year of the NOFA cycle would require additional staff review to re-evaluate readiness and viability, which would mean additional workload by HCD staff and could result in the elimination of applications for failure to be ready.

Another problem with a two-year NOFA cycle is local jurisdictions' concern over the uncertainty of federal CDBG funding, which could limit applicants' ability to plan for activities funded in the second year.

Proposed Change: HCD is not proposing any change in the MOD or frequency of the NOFAs.

### **NOFA Timing**

All CDBG funds are required to be obligated within 15 months of receipt from HUD. Prior to 2016, the CDBG NOFA was published in January each year, approximately six months after receipt of funds from HUD, with awards made many months later. Over the past two years, the NOFA has been published at an even later time—May 2016 and September 2017, making it even more difficult for the state to comply with the HUD requirement. The delay of the NOFA until after receipt of funds from HUD contributes to the state's low expenditure rate and has resulted in a finding in the March 12, 2018 Monitoring Report for failure to meet the 15-month obligation requirement.

As discussed in the Comparison of Federal and State Requirements and Promising Practices sections of this report, other states have timed their NOFAs to allow awards to be made immediately upon receipt of HUD funding.

Proposed Change: As a way of improving timely expenditure of CDBG funds and ensuring HCD meets the federal obligation requirement, HCD is considering timing the publication of the NOFA in January prior to the release of funds from HUD, which typically occurs in either July or August, with awards made as soon as the funds are received. This would contribute to an increase in the state's expenditure rate by ensuring that funds are awarded much earlier in the Program Year.

### **NOFA Development**

Until 2012, three CDBG NOFAs were developed and published separately, one for Community Development, one for ED, and one for Planning. Each year since 2012, the CDBG NOFA has been a "Super NOFA" that includes all eligible activities. The Super NOFA must comprehensively address every program component, making the NOFA lengthier and more complicated. In addition, upon receipt of applications, evaluation and rating/ranking occurs across all program activities making the review process time-consuming and unwieldy. Other states have successfully developed much simpler, streamlined NOFAs, and HCD is considering implementing this approach for several programs.

Proposed Change: HCD is considering developing a streamlined, boilerplate NOFA, which could be used every year with updates only to reflect changes to eligible activities and funding limits, workshop schedules, application deadlines, and any significant changes to the guidelines that would result in a change in the MOD or awards. This change would significantly reduce the workload of HCD staff in developing the NOFA and result in a more streamlined review process for HCD staff as well as more predictable application preparation for local jurisdictions.

### **Threshold Criteria**

Current criteria used to determine whether or not an application has passed threshold and will be rated and ranked include the following:

Federal requirements:

- Debarment (not on Federal Excluded Parties List)
- Citizen participation (all public hearings and citizen participation requirements)
- Resolution by governing body
- Statement of Assurance (signed by Chief Executive Officer)

State requirements:

- Housing Element compliance (Housing Element adopted and submitted to HCD)
- Assurance that the applicant jurisdiction has no growth control measures
- Compliance with 2 CFR Part 200 (no audit findings)
- Must have expended 50 percent of CDBG funds awarded in prior five years

While each of these criteria is important, HCD is proposing some additional or revised criteria. By strengthening these requirements, only applications for activities that can demonstrate readiness to implement would continue through the application review process. There could be a corresponding reduction in general conditions that must be met before execution of a Standard Agreement. Both of these factors would increase the state's expenditure rate because project or program readiness would be improved and activities would be implemented more quickly.

### **Growth Control Measures**

To pass threshold, applications must indicate there are no growth control measures in place. Upon further investigation by staff as they review an application, there may be measures in place that are in fact growth control measures. This requires extra work by HCD staff to look further into each jurisdiction's application to ensure compliance.

Proposed Change: HCD is proposing requiring the No Growth Control Measures confirmation to be made a part of the local jurisdiction's governing body's resolution required to be submitted with the application. This change would require greater effort by applicants to ensure there are no growth control measures in place and would

reduce the amount of time HCD staff must spend following up with local jurisdictions to verify compliance.

### **The 50 Percent Rule**

Section 7060(3) of the current state regulations specifies that an applicant is ineligible to apply for or receive a CDBG grant unless the applicant has expended at least 50 percent of CDBG funds awarded in 2012 or later. This requirement, known as the 50 Percent Rule, is intended to ensure that jurisdictions have successfully implemented activities and spent their prior grant awards before requesting additional funding. If jurisdictions are not spending their prior grant funds, it contributes to the state's low expenditure rate and results in less funding for other jurisdictions that have projects that are ready to implement.

Assembly Bill (AB) 723 allows the Director of HCD to waive the 50 Percent Rule, thus making an applicant eligible to apply for and receive CDBG funds. HCD has implemented a waiver process for applicants who meet one of two criteria: 1) The application is for a "shovel ready" project, or 2) the applicant received 2016 Special Drought and/or Disaster NOFA awards. Waiver requests are time-consuming and create workload for both local jurisdictions and HCD staff.

Proposed Change: HCD is proposing to allow a jurisdiction wishing to apply for CDBG funding for a new activity to voluntarily disencumber funds previously awarded prior to the application deadline if the project for which they were awarded is stalled or becomes infeasible. This would allow these new applications to be funded without the jurisdiction having to request a waiver of the 50 Percent Rule. The disencumbered funds would then be available to award farther down the list of applications as part of the current NOFA, which would increase the state's expenditure rate and reduce workload for both local jurisdictions and the state.

### **Readiness**

Readiness is demonstrated differently if the application is requesting funding for a program or a project. Readiness for any program can be demonstrated by adopted guidelines. Those guidelines can be simple as for a Meals on Wheels program or complex as for a housing rehabilitation program. Readiness for a project can be demonstrated by site control; a funding commitment from other sources (if other funding is necessary); a project budget, scope of work, and schedule; evidence of procurement for architectural and/or engineering services; preliminary project plans; or a list of local permits. Confirming readiness, which is important to ensure grant funds will be expended quickly, can be complex and time-consuming for HCD staff.

Proposed Change: HCD is proposing changing the readiness requirements to enhance the likelihood of more timely expenditure of funds and reduce administrative complexity.

At a minimum, HCD proposes requiring adopted guidelines for a program and at least site control and a funding commitment for projects. Threshold readiness criteria will be further refined in the redesign process and development of the new program guidelines.

### **Timely Reporting**

HCD is required to report to HUD annually. This is done through receipt of semi-annual and annual reports from grantees. Those reports are critical to HCD's ability to submit accurate and timely reports to HUD. Grantees' lateness or failure to report negatively impacts HCD's ability to fulfill its reporting responsibilities on time and accurately. This issue was discussed in the March 12, 2018 HUD Monitoring Report and HCD must bring the state into compliance with the reporting requirements.

Currently, HCD deducts points from applications for missing semi-annual or annual reports. One way to better ensure that grantees' reports are submitted regularly is to require past reports to have been submitted as a threshold criterion for evaluation of an application.

Proposed Change: HCD is proposing that timely submittal of the prior two annual reports be considered a threshold requirement as a demonstration of past performance and capacity. If an applicant has not participated in the CDBG program previously, the applicant will not be rejected based on this criterion. If the applicant has had funding for only one prior year, one year's annual report will suffice. This criterion would be implemented gradually to ensure jurisdictions have an opportunity to comply.

### **Capacity**

While capacity to undertake the administration of a CDBG grant is currently considered in rating and ranking applications, each applicant should meet a capacity baseline before being considered for an award. That capacity can be demonstrated by things like having a track record of successfully expending grant funds, or by having a staffing structure that provides at least the minimal level of staffing required to manage a grant, create reports, oversee staff doing the work, or oversee a consultant providing assistance to complete the work. Without sufficient capacity, a local jurisdiction is less likely to successfully implement grant-funded activities, which contributes to the state's low expenditure rate.

Proposed Change: HCD is proposing to make capacity a threshold requirement. Applicants would be required to demonstrate sufficient capacity to successfully implement grant-funded activities before their applications would be considered for funding. Rating points would be assigned beyond the threshold capacity criterion based on additional evidence of capacity.

### **Application Processing**

Some other states successfully use a self-scoring application process that simplifies the evaluation process for state staff as well as informing applicants of their competitiveness in the evaluation and award process. Currently, HCD provides an appendix to the application that can be used by applicants to determine their approximate rating score, but it is voluntary and does not affect the application review process.

Proposed Change: HCD is proposing to develop a self-scoring application and require that all applicants complete the scoring process as part of their application. While this change would not eliminate HCD staff review and evaluation time for applications, if applicants are required to self-score, there is more likelihood they will submit applications that are complete and meet the threshold requirements. This could increase the likelihood that funded activities are successfully implemented, increasing the state's expenditure rate.

### **Post-Award Considerations**

HUD has expressed concern that HCD is not disencumbering funds and subsequently awarding them to another eligible applicant with a project ready to be implemented quickly enough. This contributes to the state's low expenditure rate. Currently, HCD does not include performance milestones or specify circumstances in which missing a milestone will result in disencumbrance and/or repayment of funds already expended. One way to address this concern is to establish milestones in the Standard Agreement executed after funds are awarded. The Standard Agreement could also clarify that missing a milestone will result in disencumbrance and/or repayment of funds already expended.

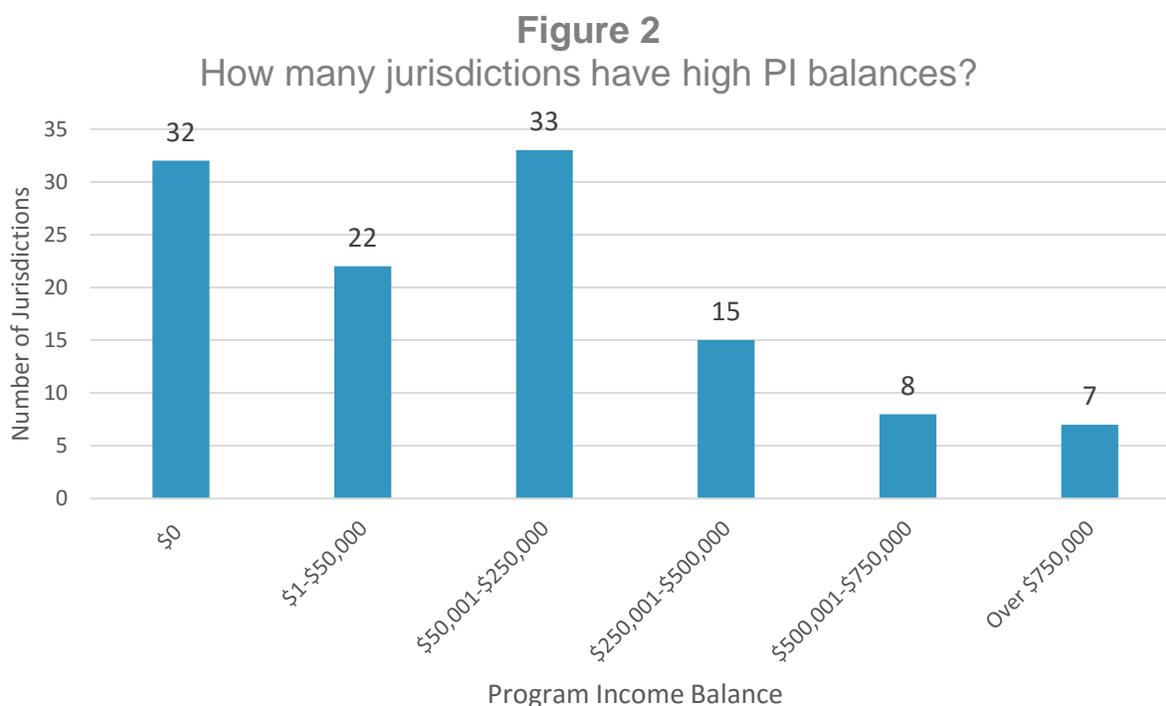
Proposed Change: HCD will establish performance milestones identifying progress toward completion for inclusion in Standard Agreements with grantees. If the grantee misses a milestone, the missed deadline will be reviewed by HCD and an amendment to the Standard Agreement, if appropriate, will be allowed. If it is determined the missed milestone was avoidable and that the project is in jeopardy of failure, the funds will be disencumbered and any funds expended on the project would be required to be repaid. This change will ensure that projects that are unlikely to be successfully implemented are identified early and steps taken by HCD to determine if grant funds should be disencumbered. While this could increase staff workload, it could increase the state's expenditure rate by more quickly reallocating these funds to projects that are ready to be implemented.

## Reducing Unspent Program Income

Program income (PI) is the gross income received by the grantee (local jurisdictions) and its sub-recipients directly generated from the use of CDBG funds. PI retained by grantees is considered by HUD to be additional CDBG program funds subject to all the same requirements as CDBG grant funds.

HUD has made a finding that California's CDBG program grantees hold an excessive amount of PI and has directed HCD to make the necessary changes to require the expenditure of PI for eligible uses within a specific time frame or require the remittance of unspent PI to HCD for use in future NOFAs. Additionally, federal regulatory changes now require HCD to report all PI by grantee, including the amount anticipated to be received in the year, as well as what the eligible uses and National Objectives will be.

Analysis by HCD staff found that unspent PI was a widespread problem, as shown by Figure 2. While HCD anticipated finding a few grantees with large amounts of unspent PI, instead the majority of grantees have some amount of unspent PI on hand. Out of 117 grantees reporting as of June 30, 2017, 33 (28 percent) had between \$50,000 and \$250,000, and 30 (26 percent) had over \$250,000 PI on hand. Almost 73 percent of grantees (85) had balances of unspent PI at the time of reporting.



*Source: California Department of Housing and Development Semi-Annual Reports of CDBG Program Income, summary report 6/30/2017.*

## Considerations in Revising Policy

Based on analysis conducted by HCD and stakeholder feedback, it is clear that only a very small number of HCD staff, grantee staff, and program administrative sub-contractors have a good understanding of HCD's current PI requirements. Additionally, HCD's current PI policies, including the PI Reuse Agreement (PIRA) and use of PI Supplemental Activities, are complex and impact the expenditure of both grant and PI funds. In its assessment of California's CDBG program, Enterprise<sup>23</sup> recommended a number of actions to mitigate this problem, including providing technical assistance to local jurisdictions to ensure they understand how to manage PI according to the rules, making changes to the processes used by HCD to oversee PI, and training HCD staff on these processes.

To develop options for addressing the PI issue, HCD gathered information from four sources, including reviews, discussions, and recommendations from:

- HUD monitoring feedback;
- Enterprise's recommendations;
- The CDBG Redesign Working Group and its subgroup on PI; and
- HCD staff.

Current PI policy requires a written agreement be in place between HCD and the CDBG grantee in order for the grantee to spend PI funds. A written agreement may be an open Standard Agreement or an executed PIRA. Activities funded solely with PI (not part of an open Standard Agreement and which do not include grant funds) also require HCD approval of a PI Waiver Request.

Under HCD's current PI policy, grantees are required to spend any PI on hand prior to requesting grant funds from an open Standard Agreement. Although this has the appearance of reducing PI on hand, it has an impact on the total amount of grant funds available. (The requirement to spend PI before grant funds can be drawn does not "increase the Treasury funds balance" since money is not added to HCD's credit line with the U.S. Treasury. Using PI on hand instead of drawing grant funds has a negative impact on the grant expenditure rate.)

Further, HCD's requirement that grantees with open Standard Agreements spend their PI before drawing grant funds could interrupt or eliminate the ability to carry out the PI activities grantees have identified as priorities in their communities. To accommodate PI projects, HCD established "supplemental activities" that, with HCD approval, are added to a Standard Agreement, allowing grantees to access grant funds for PI activities when the grantee spends PI on grant-awarded activities. The structure of "supplementals" is

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<sup>23</sup> As noted earlier in this report, HUD contracted with Enterprise provide technical assistance to HCD regarding strategies to increase expenditures and reduce unspent PI.

overly cumbersome and difficult for both grantees to manage and HCD to oversee. The current policy is not effective and may contribute to the low expenditure rate and excessive staff time—both for grantees and for HCD staff who have to monitor it.

As an example of the complexity of the current structure, a grantee with a Standard Agreement that includes general administration (GA), housing rehabilitation, and one planning activity cannot draw grant funds for a PI sidewalks project because it was not included as a “PI supplemental activity.” However, if the Standard Agreement included GA, housing rehabilitation, and planning as grant-funded activities, as well as a “PI Supplemental - Sidewalks” activity, the grantee could request grant funds for the sidewalk project if PI had previously been used to pay a housing rehabilitation cost. This approach could severely affect the grant expenditure rate and may also hamper the ability of grantees to maintain ongoing programs. HCD has the ability to allow grantees to maintain PI on hand if it is deemed likely to be applied to continue the activity within the “reasonably near future” [24 CFR 570.489(e)(3)(ii)(A)].

Further, a revolving loan fund (RLF) is a separate fund, independent of other CDBG program accounts, funded with PI and set up for the purpose of carrying out specific CDBG-eligible activities. These activities generate payments to the account to fund additional loans for the same type of activity. While PI that is held in a RLF does not have to be used before grant funds are used for a different CDBG activity, the revolving funds must be used before additional grant funds are drawn down for the same activities supported with RLF funds.

To allow grantees flexibility in using PI for projects that are needed and wanted in the community but would not be competitive in a NOFA round, a definition of a “reasonable amount” of PI on hand, as well as reasonable timelines for using the PI, must be established. For any activities outside the approved PIRA, the grantee could either apply for CDBG grant funds or submit a request to include an additional activity. This could be done with a PIRA amendment or a separate project-specific contract with defined milestones (non-ongoing activities).

HCD must have a policy on the amount of funds that can be reasonably expected to be used in the foreseeable future. This can be one set amount or a different level for different ongoing activities (e.g., housing vs. ED).

It is important for HCD to establish policies concerning:

- How PI may be utilized (define “continuing the same activity”);
- The amount of funds allowed to be kept for “ongoing” activities (as defined by HCD);
- The length of time between activities a grantee continues in order for activities to be “ongoing;” and

- The approval of PI projects to ensure they have milestones for readiness and completion.

HCD does not currently require grantees to remit PI to the state. To improve the PI expenditure rate and reduce the amount of PI on hand, any grantee that is deemed by HCD to be non-compliant with federal rule [24 CFR 570.489(e)(3)(ii)(A)] because it is “unlikely to be applied to continue the activity within the reasonably near future” must either allocate the PI to another project or remit the PI to the state. HCD must establish a limit for how long grantees may retain funds on hand without progress on the activity (such as expenditure of funds) and set a limit on the number of times PI can be re-allocated before grantees are required to remit the PI to HCD to be distributed through the next NOFA cycle.

Proposed Changes for PI: HCD is proposing a new PI policy.<sup>24</sup> The proposed policy will reduce PI on hand and will increase expenditures of unspent PI either through grantees’ compliance with this policy or through remittance of PI to HCD to award to unfunded applications in the next NOFA. To provide grantees flexibility in determining which activities best meet their community needs and to allow activities that may not score well enough in a competitive NOFA round to be funded, grantees may use PI through the execution of a PIRA. After execution of the PIRA (for funds held in both a PI account and a RLF), grantees will be able to maintain a PI balance of \$250,000 for Housing Rehabilitation and for Homebuyers Assistance, and \$750,000 for ED. Those balances must result in a completed project at least every 18 months in order to continue to collect PI. If no projects are completed in 18 months, all PI must be returned to HCD for re-awarding to other jurisdictions.

### **Anticipated Result of Proposed Policies**

While the proposed policy for addressing the problem of excessive PI on hand—either in PI accounts or RLF accounts--will be an administrative burden in the short run and to some degree over time, the current policy and process have been found out of compliance and HCD is required to increase oversight of PI. This proposal will increase the administrative burden, but less so than continuing the current PI policy. In addition, as long as grantees understand their responsibilities clearly (which has been a challenge under the current policy), HCD expects the vast majority will comply, making oversight less burdensome. HCD will sweep back unspent PI every 18 months to then make the funds available in the first following NOFA.

Table 10 summarizes proposed strategies for reducing unspent PI and evaluates whether they address the goals of CDBG program redesign.

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<sup>24</sup> For a detailed list of proposed PI policy changes, please see Appendix V at the end of this report.

**Table 10: STRATEGIES TO REDUCE PROGRAM INCOME THROUGH CDBG PROGRAM REDESIGN  
KEY PROPOSED POLICY CHANGES**

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<p><u>Program Income (PI) Agreements:</u> Currently, a PI Reuse Agreement (PIRA), in the form of an open Standard Agreement or a PI Reuse Agreement, is executed. However, the PI agreement is administratively burdensome and is not consistently implemented</p>	<p>HCD is proposing to develop a new PIRA and all grantees with PI undertaking activities that will generate PI will be required to execute this agreement. It will be a separate agreement from the Standard Agreement for administration of grant funds.</p>	<p>This change would provide clarity and consistency regarding the responsibilities required to use PI. It would result in the use of PI on a more expedited basis and would reduce unspent PI on hand. Once implemented, its impact local jurisdiction workload should be neutral. It should reduce HCD workload slightly as there would be fewer waivers and amendments to process.</p>	Yes	Yes	Medium	Slightly Less (-1)	Neutral (0)
<p><u>Spend-down Policy:</u> Current PI policy is that grantees must spend PI to zero before being allowed to draw grant funds through an open Standard Agreement.</p>	<p>HCD is proposing a change to allow grantees to keep PI to be spent on the same activity as long as they complete at least one project within 18 months. The limit of PI funds allowed on hand would be \$250,000 for Housing Rehabilitation and Homebuyer Assistance, and \$750,000 for Economic Development Loans. Any amount of PI above these limits must be remitted to HCD.</p>	<p>This change would provide a predictable and achievable PI policy that would apply to all grantees with PI. It would achieve administrative simplicity, eliminate confusion, and result in a reduction in unspent PI. The impact of this change on workload would be neutral after implementation. It would keep PI in the communities that generate it, where it could be used to fund additional CDBG activities.</p>	Yes	Yes	None	Neutral (0)	Neutral (0)

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditures	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<p><u>Supplemental Activities</u>: Currently, the process is achieved through the use of supplementals, which allow one or more activities and are requested as a part of a grant application.</p>	<p>“Supplementals” will be replaced through the use of a PIRA.</p>	<p>This provides grantees the ability to use available PI on a project without the complication of the Supplemental process; it will simplify the process.</p>	<p>Yes</p>	<p>Yes</p>	<p>Medium</p>	<p>Less (-1)</p>	<p>Less (-1)</p>

## Supporting Economic Development

As described earlier in this report, HUD allocates CDBG funds to the state on an annual basis. Funds can be awarded to eligible nonentitlement local jurisdictions for Community Development and Economic Development (ED) activities.

### Overview of Economic Development Activities in CDBG

California H&SC Section 50827 and Section 7062.1 of the state CDBG regulations require HCD to set aside 30 percent of the net annual federal CDBG award for ED activities.

CDBG ED funds are currently made available for the following three areas:

- Planning activities
- Programs operated at the local level by cities and counties for Enterprise Fund (EF) activities, including:
  - Business Assistance (BA), and
  - Microenterprise (ME) activities
- Over-the-Counter (ED OTC) projects which include:
  - Commercial/Industrial (CI) Infrastructure Development
  - CI Building Acquisition, Construction, and/or Rehabilitation
  - Other CI Improvements, and
  - ED Assistance to For-Profit Businesses

Federal regulations require that 100 percent of all CDBG funds be committed (publicly awarded to a specific grantee for a specific purpose) within 15 months of execution of the HUD contract, and encourages states to obligate and announce 95 percent of all funds within 12 months. Each CDBG NOFA includes two application deadlines: one for all Community Development programs, all planning grants, and ED non-OTC projects; and a separate deadline for ED OTC projects. This process provides funding (up to the set-aside limit) throughout the period between NOFAs for ED OTC projects. Since ED projects need funding based on the project's timing, not based on a NOFA cycle, funding ED projects on an OTC basis at the proper time increases the number of projects that are successfully completed.

**Table 11: CDBG Economic Development Grants 2012-13 Through 2016-17: Comparing Over-The-Counter Awards with Competitive NOFA Awards**

	Number of awards	Average amount awarded	Average percent low/moderate income	Average poverty rate	Average unemployment rate
<b>Awarded via Over-the-Counter:</b>	7	\$2,666,312	43.9%	17.3%	6.1%
<b>Awarded via competitive NOFA:</b>	42	\$375,045	44.1%	16.8%	7.1%

*Source: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018.*

Table 11 compares jurisdictions that have received ED awards through the OTC process with those that have received funding through the competitive NOFA process, for awards made in the five-year period 2012-13 through 2016-17. While the number of awards for OTC applications is significantly lower—there are six competitive awards for every OTC award—the size of the awards is substantially higher. Jurisdictions receiving awards made through both processes are very similar demographically.

## **ED Planning Grants**

ED funds may be awarded either to conduct the planning portion of a specific project (but they cannot be used for any project implementation activities) or for planning unrelated to any other ED activity funded as part of the grant. Planning activities include either project-specific or non-project-specific activities that would result in an ED activity. Project-specific planning funds allow jurisdictions and developers to pay for project feasibility activities prior to submission of an ED OTC project application. Awards for ED planning are made through the competitive NOFA process.

All planning activities, like other CDBG activities, must meet a National Objective in order to be eligible for CDBG funding. The planning application must identify the project, along with the National Objective and “proposed beneficiaries” that would be realized if the project were to be implemented. Alternatively, applications may include documentation that the project, if implemented, will create or retain jobs for Low/Moderate Income (LMI) residents, which HUD defines as at or below 80 percent of the Area Median Income. In limited circumstances, the National Objective of addressing Slum/Blight may be used for ED projects.

## **Enterprise Fund Activities**

Enterprise Fund (EF) activities fall into two categories: Business Assistance (BA) and Microenterprise (ME). All funds for EF activities are awarded through the competitive NOFA process.

In BA, loans are provided to eligible for-profit businesses and the funds can be used for marketing, underwriting, financing of working capital to pay for expenses, furniture and equipment, property improvements, acquisition, demolition, financing of existing debt, relocation costs, and off-site public improvements. Eligible businesses can be existing or start-up companies. Eligible businesses must meet underwriting and documentation standards similar to those used by commercial lenders, including credit history and scores, equity contributions, historical income, projected income, collateral, and debt coverage. In addition, loans must be underwritten using HUD underwriting standards.

ME funds may be used to provide three different types of assistance to eligible businesses: technical assistance, financial assistance, and support services (support services are only eligible in conjunction with technical assistance). An ME business is a commercial enterprise that has five or fewer employees, one or more of whom are the owners. Businesses may receive ME technical assistance and support services for up to three years from the date eligibility is determined. Eligible ME technical assistance and support services costs include technical assistance classes to increase capacity, one-on-one training to help develop a marketing plan (but not implementation or marketing costs), transportation, and child care to allow a program participant to attend technical assistance activities.

ME financial assistance may only be provided as a loan or grant (not both) after underwriting and confirmation that the ME participant and his or her business is financially viable. Costs for services are restricted to certain eligible activity costs. Eligible financial assistance costs include working capital, marketing costs, operating expenses, inventory, furniture and equipment, property improvements, relocation costs, and auxiliary expenses.

### **Economic Development Over-the-Counter (ED OTC)**

ED OTC funding can be awarded for the following eligible activities:

- Direct financial assistance to a for-profit business;
- Direct financial assistance to a non-profit enterprise, i.e., an incubator or health care facility;
- Direct assistance to a jurisdiction for a public facility, i.e., an incubator or commercial facility; and
- Public infrastructure in support of a business or businesses, i.e., industrial park or shopping center, commercial rehabilitation, or historic rehabilitation.

The most common type of ED OTC assistance provided is in the form of a performing loan to an eligible business by the jurisdiction/grantee for a specific project or purpose. The more complex ED OTC projects involve ED OTC funds being used to pay for infrastructure improvements in support of a commercial development (shopping center or industrial park, for instance) that will support multiple businesses, and all businesses associated with or served by the infrastructure must be underwritten and qualified as part of the ED OTC funding proposal.

ED OTC funds may be used to pay for marketing costs, furniture and equipment, property improvements, demolition and reconstruction, refinancing an existing debt, relocation, and off-site public improvements.

### **Economic Development Over-the-Counter Considerations**

Prior to initiation of the CDBG redesign process, one proposed strategy for increasing expenditures and reducing workload was to eliminate the ED OTC process and require all ED funds to be awarded through the competitive NOFA process, with unsubscribed funds awarded to non-ED activities. However, performance data comparing grants awarded for ED activities through the OTC process with ED awards made through the competitive NOFA process reveal that ED OTC projects have a higher expenditure rate. Over the five-year period 2012-13 through 2016-17, ED OTC projects spent a total of 83 percent of funds awarded, compared to 22 percent for those that received funding through the NOFA process.

**Table 12: CDBG Economic Development Grant Performance 2012-13 Through 2016-17: Comparing Over-The-Counter Awards with NOFA Awards**

	Application Amount	Award Amount	Expended	Unexpended	Disencumbered
<b>Awarded via Over-the-Counter:</b>					
Economic Development Infrastructure	\$839,019	\$839,019	\$216,200 26%	\$622,819 74%	\$0 0%
Economic Development Non-Infrastructure*	\$17,825,164	\$17,825,164	\$15,546,980 87%	\$1,505,000 8%	\$833,184 5%
General Administration	\$852,091	\$852,091	\$517,012 61%	\$153,895 18%	\$121,184 14%
<b>Total ED awarded via OTC:</b>	<b>\$19,516,274</b>	<b>\$19,516,274</b>	<b>\$16,280,192</b> 83%	<b>\$2,281,714</b> 12%	<b>\$954,368</b> 5%
<b>Awarded via NOFA:</b>					
Economic Development Infrastructure	\$2,135,000	\$2,414,070	\$0 0%	\$0 0%	\$2,135,000 88%
Economic Development Non-Infrastructure*	\$13,919,758	\$13,307,267	\$3,392,806 25%	\$5,773,951 43%	\$3,336,786 25%
General Administration** (Includes non-ED general administration)	\$17,111,141	\$13,097,768	\$6,589,354 50%	\$4,274,564 33%	\$1,116,253 9%
<b>Total ED awarded via competitive NOFA (excl. General Administration):</b>	<b>\$16,054,758</b>	<b>\$15,721,337</b>	<b>\$3,392,806</b> 22%	<b>\$5,773,951</b> 37%	<b>\$5,471,786</b> 35%
<b>Total all CDBG Economic Development activities (ex. General Administration):</b>	<b>\$35,571,032</b>	<b>\$35,237,611</b>	<b>\$19,672,998</b> 56%	<b>\$8,055,665</b> 23%	<b>\$6,426,154</b> 18%

Table 12 summarizes this data, showing funds spent as well as unexpended and disencumbered for both ED OTC and ED non-OTC projects.

*\*includes nonresidential historic preservation, direct financial assistance to non-profits, microenterprise loans and grants, microenterprise technical assistance, and microenterprise general support.*

*\*\*includes all General Administration for illustrative purposes. Includes General Administration funding for non-ED projects.*

*Percentages in table are calculated as percent of award amount. Some columns may not sum to 100 percent due to rounding.*

*Source: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018.*

Since the passage of SB 106, stakeholders have continued to stress the importance of the ED OTC option in program redesign discussions. Considering this feedback, HCD is working on a streamlined and user-friendly process for the ED OTC process. HCD has implemented a business process improvement process, reorganized key business units within HCD, conducted ED training for CDBG staff, revised Chapter 21 of the Grant Management Manual on ED, and is exploring ways to partner with ED associations to leverage their resources in providing training and technical assistance for applicants.<sup>25</sup> This creates an opportunity to develop an ED OTC strategy that contributes to increasing the volume and timeliness, and ultimately the success, of ED OTC applications.

These factors, along with a greater understanding of the timing challenges posed by restricting ED applications to the competitive NOFA application period with a firm deadline for applications, have led HCD to reconsider the most effective approach to maximize the use of ED set-aside funds for the entire range of ED projects. These ED activities provide significant benefits to local jurisdictions by providing new employment opportunities to low- and moderate-income residents and improving the overall business environment for these communities. However, in order to increase the state's expenditure rate, it is expedient to reduce the length of time ED funds are set aside, from 15 months to 12 months, before unawarded funds are made available for non-ED activities through the competitive NOFA process.

Additionally, continuation of the ED OTC program requires continued efforts to improve business processes, streamline and simplify program operations, and increase efficiency within HCD so that the availability of resources to continue the ED OTC program is maximized. Given the competing and concurrent demands on staff to address the findings contained in the March 12, 2018 HUD Monitoring Letter, this will be challenging. However, from a policy and programmatic perspective in which the goal is to maximize the effective use of CDBG funds to provide the greatest benefit to communities, continuation of the ED OTC program makes sense.

Proposed Change: HCD is proposing reducing the set-aside period for ED OTC funds from 15 months to 12 months or the next NOFA, whichever is sooner. Reducing the set-aside period from 15 months to 12 months would assist HCD in meeting HUD monitoring requirements and increasing the state's expenditure rate.

To address the resource issue discussed above, HCD will continue to implement business process improvements, support staff training on ED, consider further revisions to the Grant Management Manual chapters on ED, and partner with ED associations to improve the effectiveness and efficiency of the CDBG program. HCD will also seek a less staff-intensive structure for assisting local jurisdictions interested in ED and

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<sup>25</sup> For more discussion of these improvements, please see the Operational and Organizational Changes section of this report.

processing applications for ED OTC projects in order to establish and sustain the capacity to continue the ED OTC program. Exploration of alternative approaches for providing CDBG funds for ED activities should also continue as CDBG redesign progresses and new CDBG program guidelines are developed.

### **Other Improvements to Support Economic Development Applications and Activities**

In addition to the strategies described above to support successful implementation of the ED OTC program, there are other actions HCD plans to take to improve the success of ED applications and activities generally. SB 106 directed HCD to update CDBG Grant Management Manual Chapter 21 (Economic Development – Business Development) to reflect all federal requirements for ED Business Assistance Loans, provide updated links on the HCD website regarding federal regulations or guidelines for ED, and train HCD staff on the federal requirements for ED. While these actions have been completed, HCD acknowledges there are additional areas in which improvement is needed. There is also a continued need for technical assistance and training, for both HCD staff and local jurisdictions, on ED requirements and ways to ensure compliance with these requirements.

Stakeholders engaged in the CDBG program redesign have identified additional areas for consideration to support the success of local jurisdictions wishing to apply for funding for, and successfully implement, ED activities. One consistent theme underlying these suggestions is that HCD should adhere closely to the federal CDBG program requirements for ED and not add additional requirements through state program regulations (which will be guidelines per SB 106), policies, or procedures. Specific suggestions include the following:

- Consider awarding all ED set-aside funds through the OTC process rather than through both a competitive NOFA process and OTC.
- Adjust the percentage of grant funding allowable for ED administrative costs for programs or projects that are more administratively intensive.
- Adjust ED activity delivery costs upward for projects that are more complex and require additional activity delivery attention. Consider establishing activity delivery costs based on a percentage of the total activity budget.
- Consider adopting successful ED loan program guidance and documents from other entitlement areas' and states' CDBG programs so that Department oversight of ED loans could be less time intensive.
- Allow grantees to use both Urgent Need and Slum/Blight as the National Objective addressed by the ED activity, as appropriate.

- Consider allowing applications for Community Revitalization Strategy Areas (CRSAs) that, once established, would provide more opportunity for economic revitalization.
- Provide additional ED training for eligible jurisdictions to ensure they are able to put together successful applications for funding.
- Give points in application review for attendance at ED training provided by HCD—either directly or through an association or contract with a provider.
- Contract with an organization like Rural Communities Assistance Corporation to coordinate OTC project funding for ED projects and water and sewer projects, which could both build local capacity and provide consistency for applicants and HCD.
- Allow additional ED-eligible activities (infrastructure in support of ED activities, façade improvement, and commercial rehabilitation), once the redesigned CDBG program has been implemented and if it can be done without the need for additional staff.
- Reinstate HCD’s verification of local jurisdictions’ business loan guidelines in advance in order to reduce or eliminate review time for individual business loans, or revise and provide as guidance a business loan guideline template that meets all necessary requirements.
- Consider assigning points to an ED application for a project using California GO Biz tax credits or located in a Federal Opportunity Zone.
- Explore partnering with the U.S. Department of Agriculture, California GO Biz, or other funding entities to align funding decisions in order to provide additional resources for ED activities in eligible jurisdictions.
- Provide information on how HCD determines the amount to be set aside for ED and communicate this and other key information regularly to jurisdictions in order to increase transparency and consistency.

Discussions will continue in the coming months to assess the feasibility of these suggestions and their impacts on the state’s expenditure rate and workload. Additional changes to support the success of ED applications and projects will be included in the redesigned program guidelines and other program documents as they are determined to be feasible, have no (or a positive) effect on the state’s expenditure rate, and are easy to implement within existing resources.

Table 13 provides a summary of key policy changes proposed to support ED and evaluates whether they address the goals of CDBG program redesign.

**Table 13: STRATEGIES TO SUPPORT ECONOMIC DEVELOPMENT (ED) THROUGH CDBG PROGRAM REDESIGN: KEY PROPOSED POLICY CHANGES**

Previous Policy	Proposed New Policy	Explanation for Proposed Change in Policy	Addresses HUD Monitoring	Increases Expenditure Rate	Effort to Implement	Workforce Impact HCD	Workforce Impact Local
<p><u>Set-Aside Period:</u> HCD currently holds ED Over-the-Counter (OTC) funds for up to 15 months after the NOFA deadline.</p>	<p>HCD is proposing reducing the set-aside period for ED OTC funds from 15 months to 12 months or the next NOFA, whichever is sooner.</p>	<p>Reducing the set-aside period from 15 months to 12 months would assist HCD in meeting HUD monitoring requirements and increasing the state's expenditure rate.</p>	<p>Yes</p>	<p>Yes</p>	<p>Neutral (0)</p>	<p>Neutral (0)</p>	<p>Neutral (0)</p>

## Operational and Organizational Changes

Throughout this report, inefficiencies in the way HCD currently administers the CDBG program are identified and changes to address these inefficiencies are proposed. This section of the report adds a specific focus on the operational and organizational changes currently being implemented in HCD, responding to the requirement in SB 106 that HCD “analyze and report on its award process, contract management processes and policies, and fiscal processes, identifying efficiencies that could be implemented to improve the processing of applications, contract management and fiscal processes, and communications with local agencies.”

Table 14 provides an overview of the CDBG grant life cycle. This cycle is initiated when HUD allocates the year’s CDBG funding and ends when HCD reports on the closeout of grants funded from each HUD funding cycle. Understanding this cycle provides a context for the discussion of operational and organizational improvements below.

Over the past six months, concurrent with implementing operational and organizational changes to increase efficiency and improve administration of the CDBG program, HCD has initiated formal business process improvement (BPI) processes to streamline processes and improve the quality of HCD’s operations by identifying and removing causes of bottlenecks, inefficient handoffs, and errors. The BPI process will evaluate the entire CDBG grant management life cycle and identify key bottleneck areas. Over time, the cumulative effect of these BPIs should improve customer experience and streamline HCD operations. HCD will be tracking and measuring the impact of the BPIs implemented to provide data for continuous improvement of the CDBG program and to inform future BPI activities.

The sections below identify specific BPIs, organizational restructures, and any technology enhancement in process or proposed for the CDBG award, contract management, and fiscal processes initiated since June 2017. The final portion of this section also includes information about the trainings provided to support the organizational and operational changes identified for each component of CDBG operations.

### Award Process

#### Organizational Restructure

In March 2018, in conjunction with creation of a consolidated Grant Management section (see discussion below), HCD also reorganized its NOFA/Award (NOFA) unit to create a separate federal NOFA unit. Prior to March 2018, staff in the NOFA unit managed programs with both federal and state funding. By creating a federal NOFA unit, HCD can improve customer service, build subject matter expertise, and better meet CDBG program requirements.

**Table 14: CDBG Grant Life Cycle**

HUD Allocation & Annual Plan	Notice of Funding Availability (NOFA) and Award	Grant Management/Fiscal Operations	Monitoring/HCD Closeout	HUD Closeout & Reporting
<p><i>Allocation:</i> After Congress provides the overall CDBG allocation for the entire country, HUD uses a set of formulas to identify exactly how much each entitlement and non-entitlement region will receive for its annual allocation.</p> <p><i>Annual Plan:</i> Before HCD can publish a NOFA or make any awards, HCD must produce an Annual Plan for review and approval by HUD. This substantial document outlines how HCD intends to notice the availability of funds, the proposed method of distribution, intended objectives, and other specific program requirements.</p>	<p><i>NOFA:</i> HCD annually produces a competitive NOFA for eligible non-entitlement jurisdictions to apply for CDBG funding. HCD also administers an Over-the-Counter Economic Development application process.</p> <p><i>Award:</i> Applications submitted are reviewed, rated, and ranked based on the scoring criteria approved by HUD, consistent with state requirements, and identified in the NOFA. After an appeal period, the highest-ranked applications are awarded funds within each of the different CDBG eligible activity groups (Economic Development, Infrastructure, housing rehabilitation, etc.)</p>	<p>After the contract is executed between HCD and the local jurisdiction for the total award amount, each grantee is required to submit the compliance documentation outlined in the executed contract. Once these initial general conditions are met, and until all funds are expended, local grantees submit various documents (invoices, notices, etc.), which are reviewed by HCD staff to ensure ongoing compliance.</p>	<p>HCD is required to periodically monitor each local grantee, through desk reviews, site monitoring, and regular monitoring of required documentation. At the end of the contract period, or after all funds are expended, HCD initiates the closeout process to ensure that the original objectives outlined in the grant application have been successfully met, and that all HUD requirements have been fully completed.</p>	<p>HCD reports to HUD on each individual grantee contract to ensure that (a) a National Objective is met, and (b) the correct amount of funds have been disbursed. HCD is also required to report to HUD on the total funded activities related to each grant cycle. This reporting is done through the federal Integrated Disbursement and Information System (IDIS) database system.</p>

*Note:* The shaded area of the table corresponds with the parts of the grant cycle SB 106 directed HCD to analyze as part of this report.

## **Business Process Improvements**

HCD has initiated four BPI efforts focusing on the award process: (1) self-scoring of applications, (2) a streamlined contracting process, 3) a formal appeal process for applicants, and 4) early review of organizational documents.

Self-Scoring: Applications currently submitted to HCD are reviewed for eligibility and each receives a score based on the scoring criteria identified through regulations and each NOFA. Similar to other HCD programs and given the over-subscription rates, HCD proposes creating a Self-Scoring tool for applicants as part of the CDBG application. Self-scoring helps build capacity for applicants to evaluate their applications and supporting documentation. Self-scoring allows reviewing staff to focus on the highest scoring applications for analysis and final score determinations. Applicants will have 15 days to appeal their final score (see Appeal Process below). This change will reduce staff time needed to review applications and help reduce the overall review time frame.

Streamlined Contracting Process: HCD is establishing a standard of having contract boilerplates completed prior to the announcement of awards. HCD enters into a contract with each grantee based on the awards made in each NOFA round. Having the boilerplates completed before awards are announced will allow HCD to move from award notices to execution of contracts for these awards in a timely manner. The goal is to reduce delivery time for contracts to awardees from 60 to 30 days after award.

Appeals Process: HCD is implementing a formal appeal process across several programs. This formal appeal process includes the threshold review stage when applications submitted in response to a given NOFA are being initially reviewed and analyzed. Applicants will have 15 days to appeal their final score or, in the case of threshold review, their disqualification from being considered for funding. The formal appeal process will allow applicants an opportunity to dispute scores or threshold determinations prior to HCD finalizing the ratings and rankings. Currently, this appeals process starts after the announcement of awards at the end of the rating and ranking period for applications. This action will improve customer service and provide additional transparency to HCD's award processes by creating a standardized formal appeal process prior to making awards.

Early Review of Organizational Documents: Organizational documents are key documents in the contracting process that identify the specific roles and responsibilities of partners working together on a project. This information is required as part of receiving grant funds, to allow HCD to enter into a legally binding contract with the correct entities involved with an award. Currently the review of these documents occurs during the initial contracting stage, which occurs after awards are made. If any issues are identified with the organizational documents, they typically delay the contracting

process. By moving the review of these organizational documents earlier into the application review time frame, HCD can ensure timely completion of the award process and execution of contracts after awards.

In addition to the four actions listed above, HCD will implement additional BPIs to analyze the awards process for additional opportunities for streamlining by identifying and removing causes of bottlenecks, inefficient hand-offs, and errors.

## **Technology**

On October 1, 2015, Assembly Bill (AB) 325 was signed by the Governor. This bill required HCD, beginning January 1, 2016, to issue Standard Agreements to awardees within 60 days of awards being announced. In response to AB 325, HCD enhanced its main database to track and report on the timing of Standard Agreements being provided to awardees within 60 days. Since the start of the AB 325 requirements, 118 contracts have been executed. All (100 percent) of these have been completed within the required 60-day statutory time frame.

In addition to implementing the AB 325 requirements, HCD is proposing to convert the CDBG application from a hard copy paper format to an electronic one. The electronic application would allow HCD to compile and analyze data needed for reviewing and rating applications in a shorter period. Additionally, an electronic application would reduce errors. When HCD staff receive the current paper applications, they have to enter a significant amount of information into HCD's database. This manual data entry is both costly in time and can be prone to errors. This proposal would help reduce the time HCD needs to review and rate applications, and would do so with less potential for errors. This would help improve the timely processing of applications and reduce the time between application deadlines and noticing of awards.

## **Contract Management Processes**

### **Organizational Restructure**

In March 2018, HCD restructured two operations sections that work on the CDBG program into a single Grant Management Section. The purpose of this consolidation was to eliminate duplication of effort, streamline approval processes, build internal staff capacity, and provide for grantees greater continuity with fewer changes in staff overseeing a single grantee award.

Prior to this consolidation, CDBG grantees were assigned two representatives (one in Fiscal Oversight and one in Grant Management). Contract Management staff were predominately responsible for ensuring that proper documentation was reviewed for grant compliance requirements (such as procurement, labor, or environmental review), along with reviewing disbursement requests for reimbursement of eligible program costs. Fiscal staff were predominately responsible for re-reviewing and approving

disbursements (which had already been reviewed and approved by Contract Management staff); processing funds requests in the state and federal systems; aggregating programmatic outcome and performance information; and reporting data to HUD.

This consolidation also created a single CDBG unit within the Grant Management Section that works with grantees, processes disbursements, and reports accomplishment information to HUD. Furthermore, in addition to reducing redundancies, by creating a unit focused solely on administering CDBG, HCD can provide a more consistent interpretation of regulations, policies, and grant conditions, which will reduce the time required to complete work and improve customer experience.

<b>2015 – 2/2018</b>	<b>After 2/2018</b>
6 staff: 2 managers and 4 staff to review a contract	2 Staff: 1 Staff and 1 Manager in Grant Management
CDBG oversight spread throughout the Section	Oversight consolidated in one CDBG unit

### **Business Process Improvements**

The current phase of BPIs in Grant Management is focused on reducing the time it takes to clear grant compliance requirements by reducing staff review time from 21 days to 14 days. Clearing grant conditions is necessary for grantees to receive funding. Two Grant Management staff are dedicated to the BPI activities currently under way.

### **Fiscal Processes**

#### **Technology**

As noted above, on October 1, 2015, AB 325 was signed by the Governor. This bill required HCD, beginning January 1, 2016, to notify grantees of approval or denial of any requests for fund disbursements within 30 days. No additional resources were provided to HCD to implement this new requirement.

As Table 16 illustrates, since January 1, 2016, over 99 percent of fund disbursements have been completed within the required statutory timeframe.

**Table 16: Timely Processing of Disbursements (January 1, 2016 to May 31, 2018)**

Number of Disbursements Processed in 30 days or less	Total Amount of Disbursements	Percentage completed within statutory deadline
1,351	\$91,919,377	99.19%

### **Data Clean-up**

HCD has partially completed work to clean up historical data regarding CDBG contracts. The goal for this data clean-up is to complete requirements from past years and provide accurate information to HUD. Once complete, resources can be directed to work on other much-needed CDBG activities, such as current grant management activities, providing technical assistance, and monitoring local grantees. This clean-up work involves data from three different databases. HCD analyzed data from 1994 to 2011 grant years, identifying 2,399 contracts that needed work. HCD has established templates and processes to identify different stages of this clean-up work, given the large number of contracts. The most important work, which has been completed, involved over 650 contracts that had remaining fund balances. The next stage will focus on the remaining 1,749 contracts for reconciliation with the state accounting system. This work is projected to be completed by October 2018. The final stage in this process is reconciliation with the federal IDIS database, which is projected to be completed by July 2019. Once this stage is completed, grant years 1994 to 2011 will have been closed out and resources can be redirected to other CDBG operations activities.

### **Internal and External Training**

In addition to the organizational restructuring, BPI efforts, and data clean-up described above, HCD has conducted several trainings, totaling 119 hours, to help ensure successful implementation of the CDBG program. These trainings were provided to both HCD staff and managers, along with local grantees. External trainers with significant expertise in the CDBG program provided more than 80 percent (96 hours) of the total training provided. HUD approved and provided resources for these external trainers, ensuring the information provided would help both HCD and local grantees successfully meet HUD’s program requirements. These training sessions included training on general CDBG requirements, along with specific training on CDBG ED requirements.

In addition to training provided by external sources, HCD also implemented an additional 23 hours of training through internal resources for staff and managers working on the CDBG program. Several of the training topics were selected to specifically address SB 106 requirements, such as improvements to customer service,

financial processes, and grant management. This internal training was provided during implementation of the organizational restructuring that created the Grant Management section, providing staff and managers in the newly-created CDBG section an opportunity to learn the information necessary to successfully and consistently address the needs of grantees, meet the objectives of the business process improvements, and implement other operational goals for the CDBG program.

### **HUD Monitoring Report**

The CDBG redesign landscape changed dramatically on March 12, 2018, when HCD received the HUD Monitoring Letter and Report (Monitoring Report). This Monitoring Report was produced after HUD conducted a week-long on-site review of HCD's CDBG activity, along with additional on-site visits to local grantees. The Monitoring Report included requirements for more compliance monitoring and reporting, and more internal controls to meet program and compliance requirements. Specifically, the Monitoring Report includes 25 findings and five concerns that must be resolved, including:

- Low expenditure rate of awarded funds
- Lack of proper financial tracking, including internal controls
- Lack of proper monitoring of grantees
- Revisions and updates to the Grant Management Manual
- Lack of proper reporting of data into the federal IDIS database
- Timely distribution of awards based on HUD's timeline
- Lack of proper documentation of benefits for Economic Development awards
- Closeout of prior grant years
- Confusion over correct income limits

On May 1, 2018, HCD submitted to HUD the required "Management Plan" that included specific proposals to address each of the HUD findings for review and approval. Once HUD approves the Management Plan, HCD has until June 2019 to implement the corrective actions, which include:

- Production of policies and procedures for the following CDBG requirements
  - Program Income reporting
  - Program Income reuse
  - Auditing grantees
  - Sub-grantee closeout and reporting

- Use of Revolving Funds
- Risk assessment of grantees
- Planning activities and requirements
- Non-compliance of local grantees
- Acquisition of property
- Assessment of homebuyer assistance programs
- Neighborhood Stabilization Program (NSP) lead abatement notices
- Payments and contracting of sub-grantee recipients
- Separate tracking of grant activities and objectives
- Revising all chapters of the Grant Management Manual
- Updating or revising key legal documents, including Standard Agreements, to comply with federal Office of Management and Budget requirements
- Trainings for internal staff and local grantees on:
  - Program Income
  - Contracting with sub-grantees
  - Grant closeout
  - Real property asset management
  - Neighborhood Stabilization Program (NSP)

The Management Plan submitted by HCD also included other activities required by HUD that have little or no impact on program redesign or the experience of local jurisdictions participating in the program, such as updating the federal database and reporting on past grant activities.

The development and implementation of the HUD-required policies and procedures, along with required revisions to the Grant Management Manual, will provide for both HCD and local grantees a consistent set of requirements and interpretation of regulations to successfully meet program requirements. Virtually all of these policies and procedures will also require additional reporting by either local grantees, HCD, or both, and will potentially increase the administrative costs for operating the CDBG program. However, HCD has no option but to comply with the HUD requirements. Failing to do so could result in the loss of these critical federal grant dollars.

## Improving Communications with Local Jurisdictions

SB 106 directs HCD to identify strategies that can be implemented to improve communications with local jurisdictions. In recent years, stakeholders have expressed frustration with HCD's not providing consistent information, staff inaccessibility, not interacting with practitioners (local agencies and consultants) when making changes to the program, and a lack of technical assistance in the form of up-to-date information and resources that can assist in applying for and managing a CDBG grant. Through the CDBG redesign process and in response to the HUD Monitoring Report, HCD has initiated several activities focused on improving communications with local jurisdictions.

As a first step, through the formation of the CDBG Redesign Working Group (RWG), there has been an open exchange between members of the group and staff from HCD. The RWG has collaboratively reached agreement where possible and used the RWG meetings as an avenue for providing clarity with respect to issues and practices that have made it difficult for grantees to be successful. The work has been productive and HCD hopes that this collaborative approach will continue beyond the redesign of the CDBG program.

The CDBG Advisory Committee is a long-standing group of eligible jurisdictions and grantees, consultants to eligible jurisdictions and grantees, and HCD staff. Advisory Committee meetings have been held periodically over many years with the purpose of informing Advisory Committee members and discussing program changes that are considered important to either HCD or grantees. Many members of the RWG also sit on the Advisory Committee. HCD plans to develop a charter for the Advisory Committee in an effort to clarify its purpose and roles of members on the Advisory Committee. The charter for the RWG was an important foundational document that has guided the work of the group throughout the last ten months. HCD will develop a charter for the Advisory Committee, in collaboration with the RWG, and will reconvene the Advisory Committee on a regular basis when CDBG redesign has been completed.

The HCD website underwent a major change in January 2017. Since that change occurred, HCD has found there are additional changes that are important to make the website useful. External customers have shared their frustrations as well. Work started early in 2018 to make improvements.

In addition to improvements in the format and usability of its website, HCD has created a CDBG Redesign web page with additional information about redesign to ensure visibility about its progress and process. Updates have been made to links that provide resource information—specifically about CDBG's ED activities and HUD resources. HCD will continue to update and enhance the information and resources on the website whenever new information becomes available. The CDBG Advisory Committee and the RWG will be invited to share information as it becomes known to them so that the website can be as robust and current as possible.

SB 106 required HCD to update Chapter 21 of the Grant Management Manual. That chapter addresses Economic Development—Business Development. The remaining chapters of the Grant Management Manual also need attention, and HCD will update those chapters once CDBG redesign is complete so that the document will be most useful to and current for both grantees and HCD staff.

Prior to the functional realignment of staff at HCD, the website made available staff contacts in specific programmatic areas and specialties as well as any geographic areas of responsibility. That information was not available before the operational changes described in this section. HCD has recently added a page to the CDBG webpage providing a map that provides Grant Management staff and managers' contact information by geographic region.



# Grant Management CDBG Reps by County

Gwyn Reese (916) 263-5766  
Gwyn.Reese@hcd.ca.gov



DEPARTMENT OF HOUSING  
AND COMMUNITY DEVELOPMENT

**Grant Management**  
2020 W. EL CAMINO, ROOM 400  
SACRAMENTO, CA 95833  
www.hcd.ca.gov

Reps managed by Gwyn Reese

Revised May 2018

In order to maintain and continue the level of communication and sharing that is in the best interest of both HCD and HCD's external customers, in addition to the above actions, HCD will partner with associations to both spread the word to stakeholders as well as provide ongoing two-way communication. This will better ensure that stakeholders are well informed about resources and information that is important to them. Those associations include such organizations as the California Association for Local Economic Development, California League of Cities, and Rural County Representatives of California.

Communication is essential to the work of HCD and its partners in California. In order to ensure the success of CDBG, HCD will continue to provide what is necessary in a way that is accessible and practical to current and potential grantees.

### **Implications for Program Redesign/Next Steps**

At the time this report was written, the full impact of the operational changes has not been realized. However, the actions listed within this report, when implemented, will achieve both operational efficiencies and a better experience for local jurisdictions interacting with staff and navigating the program requirements.

The CDBG program redesign work and the HUD Management Plan work must be balanced within current resources for the CDBG program. Timelines may be impacted based on staff available to complete the work within the time frames.

Table 15, below, summarizes the organizational and operational improvements discussed in this section.

**Table 15: Summary of CDBG Organizational and Operational Improvements since June 2017**

Activity Area	Notice of Availability (NOFA) & Award	Grant Management/Fiscal Operations	Monitoring/HCD Closeout
<b>Organizational Changes</b>	<p>Reorganized the NOFA unit to create a separate federal NOFA unit to ensure program continuity and expertise on CDBG application and award process.</p>	<p>Consolidated two sections (Contract Management and Fiscal) into one Grant Management Section. Within the new Grant Management Section, a CDBG unit has been created. This consolidation created more efficient approval and management oversight, and will improve customer service through timely and consistent communications and a known point of contact.</p>	<p>Incorporated staff with expertise from the audit and evaluation team into the upfront technical assistance monitoring team to assist grantees prepare for an eventual full audit and onsite monitoring.</p>
<b>Business Process Improvements (BPIs)</b>	<p>Updating the contract development process to reduce time to deliver contracts to awardees from 60 to 30 days after awards have been announced.</p> <p>Proposing to develop self-scoring applications, which will reduce staff review time, potential appeals and timeline to make awards.</p> <p>Implementing a formal appeal process, including at the threshold stage, to allow applicants the opportunity to dispute scores, or in the case of threshold appeals, their disqualification. This action will improve customer service and provide greater transparency in the award process.</p> <p>Shifting the timing of the review of organizational documents to the application review process instead of post-award, to reduce the potential for delays during the contracting phase.</p>	<p>Completed BPI process to reduce time to review and approve general grant conditions from 21 to 14 days after receipt of documents from grantees.</p>	<p>Piloting a new monitoring process with initial grantee program review to identify any gaps or missing requirements, followed by technical assistance to help grantees be successful in program compliance. HCD will provide grantees with the opportunity to address any gaps or issues prior to formal monitoring visits.</p>
<b>Technology</b>	<p>Developed database tracking tool to comply with requirements of AB 325 to provide contracts within 60 days of awards. Currently HCD is maintaining 100 percent compliance with this requirement.</p> <p>Proposing to convert CDBG application from a hard copy paper format to an electronic one, to improve the</p>	<p>Developed database tracking tool to disburse funding within 30 days of funding request, per AB 325 requirements. HCD is maintaining 100 percent compliance with this requirement.</p>	

Activity Area	Notice of Availability (NOFA) & Award	Grant Management/Fiscal Operations	Monitoring/HCD Closeout
Data Clean up	timely processing of applications and reduce the time between application deadlines and noticing of awards.		
		Reviewed 2,399 contracts, identified 650 priority contracts, and completed work on 475 of these priority contracts. The cleanup work on the remaining contracts identified is projected to be completed by July 2019, which will support grant close out for HUD funding years 1994 to 2011.	Initiating close out of 1994-2011 grant years, which will address HUD monitoring findings, eliminate backlog, and allow staff resources to focus on current grant management activities.
Staff Training and Development	Basic CDBG Economic Development two-day training, taught by an external CDBG expert consultant, was held for HCD staff in December 2017, as required by SB 106. One additional day of CDBG Economic Development training will be scheduled in fall 2018 for HCD staff and local jurisdictions together.	Trainings have been provided for HCD staff on basic grants management, customer service, disbursement process review, contract processes, and management review.	Training has been provided for HCD staff on financial management.

## Next Steps and Conclusions

There is much work ahead for HCD and grantees to refresh and restore the CDBG Program to its original purpose while ensuring programmatic compliance with federal requirements and a state administrative structure that is aligned with current resources.

In order to achieve this end, HCD will continue its work with the Redesign Working Group to address the specific areas described in this report—increasing the expenditure rate, reducing and managing program income (PI), and enhancing the over-the-counter economic development (ED OTC) activity in a way that creates jobs that sustain California’s non-entitlement communities. Necessary steps to take include:

- Improving program delivery to ensure eligible local jurisdictions can successfully participate, including developing clear and consistent policies and procedures; communicating regularly with, and inviting input from, local jurisdictions and other stakeholders; and providing technical assistance and training to staff from HCD and local jurisdictions.
- Making changes necessary to ensure the state’s expenditure rate increases and California’s compliance with the HUD rules is restored.
- Reorganizing HCD’s operations to maximize the efficient use of resources and eliminate inefficiencies in program administration.
- Providing robust and transparent information and analysis to support ongoing program improvement and assessment of the program’s success in fulfilling its promise to improve the lives of low- and moderate-income individuals and families throughout California.

HCD is seeking a balance between offering the maximum degree of flexibility to local jurisdictions to use CDBG funds for appropriate and needed activities, while at the same time ensuring an administrative structure that can be sustained within the resources available. HCD appreciates the significant contribution of the members of the Redesign Working Group who have shared their time, talents, and support toward this effort. The work is not yet done, and their contributions have greatly enhanced HCD’s understanding of the challenges faced by small and rural California communities and the residents they serve.

Over time, as HCD implements the redesigned CDBG program, progress should be measured by the following:

- Increases in the number of local jurisdictions that apply for CDBG funds from previous years;
- Decreases in the level of unspent CDBG grant funding to within the parameters set by HUD;

- Higher utilization rates of PI than in previous years;
- Reductions in disencumbrances and extension requests from past years; and
- Decreases in administrative costs for both HCD and local jurisdictions to match resources available and reflect programmatic efficiencies.

As important as these measures are, success in meeting the goals of the CDBG program should also be measured. HCD and local jurisdictions must hold themselves and each other accountable to ensure the program is successful in meeting its policy objectives, through measures that include the following:

- Increases in new and rehabilitated affordable housing;
- Increases in services provided to the most vulnerable residents; and
- Increases in the number of jobs created and retained for lower-income residents.

HCD is committed to seeing the CDBG redesign process through to its conclusion to ensure the CDBG program can fulfill its mission—serving the needs of low- and moderate-income individuals and families living in California’s rural and non-entitlement communities.

# Appendix I: Budget Trailer Bill Language Related to the CDBG Program

**Senate Bill 106, Chapter 96, Statutes of 2017**

**(Changes to Health and Safety Code Sections 50825 to 50834)**

Note: existing law being deleted is in **red** ~~strikeout~~ and new language is in **blue** italics

Includes analysis of impact on non-entitlement jurisdictions and HCD

Sect. # Language in Trailer Bill (TB)

50825 It is the intent of the Legislature in enacting this chapter to ensure that funds allocated to the state pursuant to the federal State Community Development Block Grant Program (42 U.S.C. *Sec.* 5306(d)), and administered by the department, be ~~of~~ *prioritized for the most effective activities in order to provide* maximum benefit in meeting the housing and economic development needs of persons and families of low or moderate income. The Legislature intends that these funds be provided to eligible cities and counties that ~~encourage new housing developments and economic development and which need the funds to support those developments.~~ *develop and preserve decent affordable housing and suitable living environments and expand economic development opportunities.* It is the intent of the Legislature to reaffirm established state policy that each eligible city or county contribute to meeting the statewide housing goals, or contribute to meeting the state's urgent need to halt the flow of jobs out of California by working to retain and expand existing businesses and attract new businesses that provide jobs to low- and moderate-income persons and families, or do both, and that funds allocated pursuant to this chapter be distributed accordingly. *It is the intent of the Legislature that program funding be prioritized for the most effective activities in order to provide that taxpayer contributions are efficiently deployed to foster housing and economic development. All funded eligible activities shall be consistent with the state's consolidated plan and any annual update to the consolidated plan that is provided to the United States Department of Housing and*

TB Summary and What This Means

Clarifies intent for Community Development Block Grant (CDBG) funds to be prioritized at their highest and best use to meet economic development needs of low- and moderate-income Californians living and working in eligible jurisdictions.

Also clarifies state intent to follow HUD's broader program objectives to use CDBG for community and economic development in addition to housing activities as identified in the annual Consolidated Plan updates submitted to the U.S. Department of Housing and Urban Development (HUD).

**What this means for non-entitlement jurisdictions:**

Acknowledges that CDBG funds can be used to aid communities more broadly than just for housing activities.

**What this means for HCD:**

No significant changes to the current CDBG program; however, in the development of guidelines, HCD and its working group will attempt to clarify the meaning of "prioritized for the most effective activities."

*Urban Development, which details how the State of California intends to use federal program funds.*

- 50826 (a) *“Consolidated plan” means the five-year action plan that results from the process set by the United States Department of Housing and Urban Development (HUD) that assesses affordable housing and community development needs and market conditions, allows the prioritization of development needs, and makes data-driven, place-based investment decisions for federal funding provided by HUD.*
- (b) “Eligible city or county” means an area which is not a metropolitan city or part of an urban county, as defined by Section 5302(a)(4) and (6), respectively, of Title 42 of the United States Code.
- (c) “NOFA” means notice of funding availability, a public announcement that an estimated amount of funding will be awarded by a department program according to specific criteria and schedules.
- (d) “Persons and families of low or moderate income” means persons and families whose income does not exceed 80 percent of the area median income, adjusted for family size, as determined pursuant to regulations or subsequent guidelines adopted by the department.
- (e) “Program” means the State Community Development Block Grant Program created pursuant to federal law (42 U.S.C. 5301, et seq.).

Clarifies the meaning and process to develop and publish the “Consolidated Plan,” a document that is required by HUD and is completed by the Department of Housing and Community Development (HCD).

**What this means for non-entitlement jurisdictions:**

Codifies existing HCD process to make the Consolidated Plan available to the public in advance of submittal to HUD so that non-entitlement jurisdictions are able to review and comment on any provisions related to CDBG.

**What this means for HCD:**

No significant change to current process

50826.1 *(a) Notwithstanding any other law, the department may adopt guidelines to implement this chapter. Any guideline, rule, policy, or standard of general application employed by the department in implementing this chapter shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The department shall convene a stakeholder process to inform the development of guidelines for the implementation of the program pursuant to this chapter no later than September 1, 2017. Until guidelines are adopted, the department shall administer the program pursuant to adopted regulations. Upon adoption of guidelines, previously adopted regulations are repealed. The repeal of previously adopted regulations pursuant to this section shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).*

*(b) On or before June 30, 2018, and notwithstanding Section 10231.5 of the Government Code, as part of the guidelines adoption process, the department shall analyze and report on its award process, contract management processes and policies, and fiscal processes for the federal State Community Development Block Grant Program, identifying efficiencies that can be implemented to improve the processing of applications, contract management and fiscal processes, and communications with local agencies. The department shall identify requirements previously adopted by the state that are in excess of the minimum*

- (a) Allows HCD to develop and adopt guidelines to operate the CDBG program in place of Administrative Procedures Act regulation process. Guidelines will be developed collaboratively with stakeholders with whom HCD will begin meeting for this purpose no later than September 1, 2017. Regulations will remain in effect and expire upon adoption of guidelines. Subsequent amendments to the guidelines must be reported to Department of Finance (DOF) and the Joint Legislative Budget Committee (JLBC).
- (b) Requires HCD to analyze and recommend improvements to the current CDBG grant award, contract management, and fiscal processes. Includes an analysis by HCD to compare state operational rules to HUD's requirements and determine where state requirements may be unnecessarily onerous and, if eliminated, could ease applicant use while maintaining HUD compliance and create more efficient program administration.

Requires that an analysis report be delivered to DOF and the budget committees of both houses of the Legislature by June 30, 2018.

**What this means for non-entitlement jurisdictions:**

Improves operational flexibility of the CDBG program to make necessary program updates and successful deploy funding to eligible and needy jurisdictions. Updates will be done in collaboration with stakeholders ensuring continued input into that process.

Sect. # Language in Trailer Bill (TB)

*requirements applicable to eligible activities under the federal Community Development Block Grant Program that, if eliminated, facilitate greater subscription of program funds and reduce state administrative workload. The department shall provide the results of that report to the Department of Finance and budget committees of both houses of the Legislature. Any subsequent amendments to the guidelines shall be reported to the Department of Finance and the Joint Legislative Budget Committee.*

50827 (a) Thirty percent of the annual allocation of federal Small Cities Community Development Block Grant ~~funds- funds,~~ *less department administrative funds,* shall be set aside for economic development projects and ~~programs specified in Sections 50832, 50832.1, 50833, and 50834- programs.~~ All funds made available pursuant to the program shall, consistent with the requirements of subsection (c) of Section 5301 of Title 42 of the United States Code, be utilized to provide decent housing, a suitable living environment, and expanding economic opportunities, principally for persons and families of low or moderate income. *Following the adoption of guidelines pursuant to Section 50826.1, with approval by the*

TB Summary and What This Means

Analysis of state CDBG program rules against the HUD rules will inform non-entitlement jurisdictions about how HCD operates and whether and/or how the state's rules are more stringent than HUD's and identify areas for potential improvement.

**What this means for HCD:**

HCD will work on guideline development in collaboration with the working group of stakeholders after any redesign of the program has been completed. Once adopted, if the guidelines are changed, HCD must report the changes to DOF and JLBC.

Analysis of HCD's current operation must be complete by June 30, 2018. This may be somewhat facilitated through the work of the HUD-assigned technical assistance providers whose work will start in late summer 2017; however, determining if HCD's requirements exceed those of HUD's represents a significant workload for which HCD must identify resources.

(a) Clarified that the total funds available to be granted to eligible jurisdictions' applications would be the total allocated minus HCD's administrative costs. This provision also continues the 30 percent set-aside for economic development purposes; however, after approval of the guidelines, if there are not enough applications for economic development funds in response to a Notice of Funding Availability (NOFA), those funds can be awarded to other qualifying applications submitted.

Sect. # Language in Trailer Bill (TB)

*Department of Finance and notification to the Joint Legislative Budget Committee, or June 30, 2018, whichever is sooner, if there are insufficient qualified applications for economic development project and program set aside provided by this section, as determined by the department's review of all economic development applications received by the application deadline specified in the NOFA, these funds shall be available to make awards to other qualifying projects and programs submitted by the application deadline specified in the NOFA.*

*(b) On or before June 30, 2018, with the consultation of stakeholders, the department shall update Chapter 21 of its Grant Management Manual to facilitate the subscription of and reflect all federal requirements for economic development business assistance loans.*

*(c) It is the intent of the Legislature to remove impediments and streamline access for local agencies to the funds set aside by this section to assist with local economic development efforts. On or before January 1, 2018, the department shall do all of the following:*

*(1) Provide electronic links on the department's Internet Web site to any applicable federal regulations or guidelines published by the United States Department of Housing and Urban Development applicable to eligible economic development activities.*

*(2) Ensure that program staff are trained on the applicable federal law, regulations, or guidelines published by the United States Department of Housing and Urban*

TB Summary and What This Means

The deletion of the references to Sections 50832, 50832.1, 50833, and 50834 are clean-up to existing sections addressing the economic development set-aside.

(b) Further instructs HCD to work with stakeholders to update Chapter 21 of the Grant Management Manual on the use of CDBG funds for economic development projects and programs by June 30, 2018.

(c) Requires HCD by January 1, 2018, to assist local agencies in accessing economic development funds by 1) providing internet links to applicable federal rule or guidelines from HUD, 2) making sure HCD staff are trained in this area, and 3) preparing a schedule to release a NOFA to expedite allocation of all available unencumbered funds as of May 22, 2017.

**What this means for non-entitlement jurisdictions:**

(a) Local jurisdictions will continue to have access to the economic development set-aside; however, when that set-aside is not fully subscribed, the funds can then more easily be used to award funds to other non-economic development activities for applications that were received in response to the NOFA.

(b) HCD will work with non-entitlement jurisdictions and their representatives to continue the process of improving the economic development chapter of the Grant Management Manual. Stakeholders' contributions will better ensure that the final document will work for both HCD and non-entitlement jurisdictions in the use of economic development set-aside funds.

*Development applicable to eligible economic development activities.*

*(3) Prepare a schedule for the release of a NOFA to expedite the allocation of all unencumbered available funds, as of May 22, 2017, allocated pursuant to the requirements of this section.*

- (c) Any enhancement of information on the HCD website will make it easier for non-entitlement jurisdictions to access information about how to use CDBG funds for economic development activities. Economic development training of staff would allow HCD to spread the workload associated with economic development projects and ultimately result in more robust technical assistance to eligible applicants and grantees. A schedule for the 2017 CDBG NOFA has been released and a webinar held to inform eligible jurisdictions of the new features in that NOFA when published.

**What this means for HCD:**

- (a) CDBG currently interprets the term “total funds available” to exclude administrative costs, making this provision negligible from the work perspective. The change eliminates any confusion over the possibility that HCD would otherwise award a disproportionate amount for economic development to the detriment of community development and housing activities.
- (b) The change codifying that unawarded economic development funds can be awarded to the general program may make that process smoother and increase the expenditure rate to the state’s and grantees’ advantage. Without this change, HCD would continue to make the economic development funding available for awards until the next federal contract period. The ongoing processing of applications is resource intensive. This change allows HCD to process only those applications received by the applications deadline.

50828 Not less than 51 percent of the ~~funds made available to the department pursuant to the program~~ *annual allocation of federal Small Cities Community Development Block Grant funds, less department administrative funds*, shall be utilized by the department to make grants to eligible cities or counties for the purpose of providing or improving housing opportunities for persons and families of low or moderate income or for purposes directly related to the provision or improvement of housing opportunities for persons and families of low or moderate income, including, but not limited to, the construction of infrastructure. *Following the adoption of guidelines pursuant to Section 50826.1, with approval by the Department of Finance and notification to the Joint Legislative Budget Committee, or June 30, 2018, whichever is sooner, if there are insufficient qualified applications for providing or improving housing opportunities for the set aside provided by this section as determined by*

(c) Some work has already occurred on the update to Chapter 21 of the Grant Management Manual. The work will continue; however, staff will have to be identified for this work, which may mean that other work unrelated to the update would be delayed.

(d)(1) There are already links on the HCD website; but HCD will identify others and make sure they are posted.

(d)(2) Training creates workload for program staff for which HCD must identify resources. Thoroughness of the training requirement will be subject to current funding challenges.

(d)(3) The NOFA is scheduled to be released in September 2017.

Clarifies that total funds available for award would be the total allocated minus HCD's administrative costs. No change to the requirement that a minimum of 51 percent of the granted funds be available for housing and housing-related activities.

Continues the 51 percent set-aside for housing and housing-related activities; however, after approval of the guidelines, if there are not enough applications for housing activities in response to a NOFA, those funds shall be available for other non-housing qualifying applications.

**What this means for non-entitlement jurisdictions:**

Local jurisdictions will continue to have access to the housing and housing-related set-aside; however, when that set-aside is not fully subscribed, the funds can be used to award funds to

Sect. # Language in Trailer Bill (TB)

*the department's review of all applications for providing or improving housing opportunities received by the application deadline specified in the NOFA, these funds shall be available to make awards to other qualifying projects and programs submitted by the application deadline specified in the NOFA.*

50832 ~~(a) In order to ensure that a city or county may apply for both economic development and general program grants pursuant to this chapter in the same year, each applicant shall have a maximum grant request limitation as determined by the department and announced in the applicable NOFA, excluding general allocation planning and technical assistance grants and economic development allocation planning and technical assistance grants made available under Section 50833, of which a maximum amount as determined by the department and announced in the applicable NOFA, per year may be used for either general program or economic development applications. These limitations may be waived for the economic development allocation based upon available economic development funds after September 1 of each year. The department shall aggressively inform eligible cities and~~

TB Summary and What This Means

other non-housing activities for applications that were received in response to the NOFA.

**What this means for HCD:**

CDBG currently interprets the term “total funds available” to exclude administrative costs, making this provision negligible from the work perspective.

HCD will be able to move funds to other activities if there are inadequate applications to fulfill the 51 percent set-aside for housing and housing-related activities. This may move funds more expeditiously and increase the state’s expenditure rate.

The following provisions are removed:

1. maximum amounts that can be requested in an application;
2. for both general and economic development planning and technical assistance grants, the limits may be in addition to the program and project application limits as laid out in a NOFA;
3. the waiver for economic development applications and the requirement that HCD inform eligible jurisdictions of the eligibility requirements for an application for and receipt of an award; and
4. any clarification about the different consideration of economic development applications.

This removes mandated application requirements (defaulting to the federal requirements as minimums), including a distinction

Sect. # Language in Trailer Bill (TB)

~~counties of the eligibility criteria and requirements under this section and in Section 50833.~~

~~(b) Except for applications specified in Section 50832.1, applications for all activities or set-asides under this section and Section 50833 shall be evaluated on a first-in, first-served basis.~~

~~(c) For all economic development applications under this section or Section 50833, including economic development assistance grants,~~ *program applications*, the department shall develop project standards and rating factors which meet the minimum requirements of federal statutes for eligible projects and that meet National Objectives.

~~(d) A jurisdiction may submit multiyear proposals for a period not exceeding three years in duration.~~

50832.1 ~~(a) The department is authorized to utilize specified amounts of the economic development set aside for a reservation of funds program to establish or enhance local revolving loan fund programs.~~

~~(b)~~ (a) To the extent that the department determines that some local communities lack capacity to apply for and administer projects under this section and Section 50832, the department may utilize federal training dollars to provide

TB Summary and What This Means

between community (general) and economic development activities. This allows flexibility in how HCD moves forward with stakeholder involvement in the redesign of the CDBG program.

Finally, removes clarification that a jurisdiction can submit an application containing an activity or activities for which funds would be used over a three-year period.

**What this means for non-entitlement jurisdictions:**

Any improvement to the way in which the CDBG program operates will benefit non-entitlement jurisdictions and allows the CDBG program redesign to move forward without any additional and unnecessary statutory requirements.

Removing the specificity of the period over which an activity could use CDBG funds allows greater flexibility in program design and operation by both HCD and eligible jurisdictions.

**What this means for HCD:**

HCD is better able to redesign the CDBG program in collaboration with stakeholders to work most effectively.

Removes the authorization for economic development funds to be used to establish a local revolving loan fund, which is prohibited by HUD.

Also removes the specific suggestion that one way HCD could help grantees come into compliance with federal requirements is by training them in the use of revolving loan funds to be operated by a separate entity.

**What this means for non-entitlement jurisdictions:**

Sect. # Language in Trailer Bill (TB)

training services to those communities. In providing training, the department may contract with training entities, provide the training directly, or make stipends available for that training.

~~(e)~~ (b) Utilizing only existing Community Development Block Grant administrative funds, the department shall make every effort to assist communities unable to demonstrate compliance with federal regulations to come into ~~compliance, which may include providing communities training in revolving loan fund administration through outside contractors.~~ *compliance.*

50833 (a) The department shall determine and announce in the applicable NOFA the percentage of the total amount of the State Block Grant Program funds set aside for economic development that shall be allocated to make economic development planning and technical assistance grants to eligible small cities or counties for business attraction, retention, and expansion programs for the development of local economic development strategies, predevelopment grant feasibility studies, and downtown revitalization programs. Eligible small cities or counties may contract with public agencies or nonprofit economic development corporations and other eligible subgrantees or for-profit corporations or entities to provide these services. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this set-aside is in addition to the city or county ceiling, under Section 50832, or its ability to apply under the economic development or general

TB Summary and What This Means

By removing this section that is not in compliance with HUD rules, grantees do not run the risk of misusing economic development funds to establish a revolving loan fund.

**What this means for HCD:**

Removes any confusion about future use of economic development funds for revolving loan funds.

Removes the restriction that an applicant can receive only two grants per year and may apply each year. Also, removes the requirement that an applicant cannot receive more than the limit allowed per jurisdiction in a single year. Does not change the provision for HCD to specify in the NOFA a maximum grant amount per year.

Changes “an applicant” to “any applicant” to indicate that the Director of HCD can waive the restriction on applying for CDBG funds more broadly than one applicant at a time when applicants have not yet used at least 50 percent of funds awarded through grants made on or after 2012. Further, adds language to clarify that the same rating criteria rules apply in future guidelines as currently apply in regulations.

**What this means for non-entitlement jurisdictions:**

Sect. # Language in Trailer Bill (TB)

program set-asides. The department shall determine and announce in the applicable NOFA the maximum per year grant amount. ~~Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of the maximum amount determined by the department and announced in the applicable NOFA in any one year.~~ Funds not applied for or allocated under this section may be used for other economic development purposes under Sections 50832 and 50832.1.

(b) The department shall determine and announce in the applicable NOFA the percentage of the total amount of the State Block Grant Program funds not used for economic development that shall be set aside to make technical assistance grants to eligible small cities or counties for purposes including, but not limited to: inventory of housing needing rehabilitation in the district, income surveys of area residents, and any general studies of housing needs in the district. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this set-aside is in addition to the city or county ceiling or its ability to apply under the economic development or general program set-asides. Unexpended funds allocated under this section shall revert to the general program, but not to the economic development set-aside. The department shall determine and announce in the applicable NOFA the maximum grant amount per application. ~~Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in~~

TB Summary and What This Means

Eligible jurisdictions are no longer impeded by the limit on the number of economic development applications it can submit in response to a NOFA if the applications reflect a ready project.

The use of the words “any” in place of “an” applicant means that the Director of HCD can invoke a broad waiver to the current rule prohibiting grantees that have not expended at least 50 percent of grants received in previous years back to 2012.

**What this means for HCD:**

HCD can now fund projects when a jurisdiction has received a grant for a general or housing-related project or program and is ready with more than one economic development project. This would in theory improve the state’s expenditure rate while stimulating communities through the use of CDBG funds.

Allowing the Director to waive the 50 percent rule broadly means fewer specific waivers would have to be considered; however, this also means that there may be less impetus for complying with the 50 percent rule, potentially reversing any progress previously made to increase the expenditure rate.

~~excess of the maximum amount determined by the department and announced in the applicable NOFA in any one year.~~

(c) If, under federal law, the economic development planning and technical assistance grants and the general allocation planning and assistance grants are considered to be administrative expenditures, the department may reduce the percentages of the set-asides by up to the amount necessary to remain within the allowable limits for administrative expenditures.

(d) Two or more jurisdictions may pool their funds and make a joint application for the same project.

(e) General administrative activity planning studies shall not be counted against allocations under this section.

(f) The department may issue a NOFA under which the director may determine that ~~an~~ *any* applicant with one or more current Community Development Block Grant agreements signed in 2012 or later, for which the expenditure deadline established in the grant agreement or agreements has not yet passed, is eligible to apply for and receive an award of, funds pursuant to this chapter, without regard to whether the applicant has expended at least 50 percent of Community Development Block Grant Funds awarded in 2012 or thereafter. For any applicant that is so determined, the director shall include in the application file a written confirmation of eligibility and any award of funds. An application made pursuant to the director's determination under this section may be evaluated solely on the basis of

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eligibility, need, benefit, or readiness, without regard to any specific rating criteria provided by Section 7078 of the California Code of ~~Regulations.~~ *Regulations or subsequent guidelines adopted pursuant to Section 50826.1.* The awarding of funds to an applicant pursuant to the director's determination under this section does not exempt those funds from consideration under any expenditure requirement under law.

50833.1 In the event that the department is allocated supplemental funds in excess of the state's annual program allocation pursuant to subdivision (d) of Section 5306 of Title 42 of the United States Code to meet an extraordinary need, including funds provided to serve as an economic stimulus to the economy of California, or in the event that federal funds are required to be set aside from the department's annual allocation pursuant to federal law or regulation, the department may distribute these supplemental or federally mandated set-aside funds pursuant to guidelines to be set forth in a special Notice of Funding Availability.

The distribution of supplemental or federally mandated set-aside funds under this section shall not be subject to the requirements of Sections 50831, 50832, and 50833, and shall be made notwithstanding any special allocations specified in Subchapter 2 (commencing with Section 7050) of Chapter 7 of Division 1 of Title 25 of the California Code of ~~Regulations.~~ *Regulations or guidelines adopted pursuant to Section 50826.1.*

Clarifies that guidelines can be used in lieu of regulations to grant federal supplemental or other federally mandated set-asides.

**What this means for non-entitlement jurisdictions:**

The adoption of guidelines for supplemental or federally mandated set-asides means that any changes to how local jurisdictions can access funds for these purposes can more easily occur.

**What this means for HCD:**

HCD will be able to address the issue of supplemental or federally mandated set-asides in the development of guidelines rather than in regulations.

The guidelines for the distribution of supplemental allocations and federally mandated set-aside funds shall not be subject to any provision of Subchapter 2 (commencing with Section 7050) of Chapter 7 of Division 1 of Title 25 of the California Code of Regulations that the department determines to be in conflict with the purpose of, or impair the achievement of the goals of, the supplemental allocation or the federally mandated set-aside funds.

The department may adopt emergency regulations to implement this section. The adoption of any emergency regulations to implement this section that are filed with the Office of Administrative Law within one year of the effective date of the federal act that allocates these supplemental funds shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

- 50834 (a) The department shall ~~prepare a separate and discrete training manual and request for proposal for~~ *ensure potential applicants have access to instructions that allow them to successfully qualify for* the economic development ~~set-aside.~~ *set aside.* The department shall ensure that it can respond to requests for grants as rapidly as possible. Once an economic development project award is approved by the director, a contract shall be executed and funds made available as soon as possible.
- (b) Any program income received by a city or county ~~grantee, or~~ *grantee or its subrecipients, or* any loan repayments made by a beneficiary to a

Requires HCD to make sure that all eligible jurisdictions have access to the application instructions for economic development set-aside funds.

Also requires, rather than allows, CDBG loan repayments to be used for an eligible activity, if a grantee or their subrecipient is to use these funds.

This provision removes the requirement that at the end of the contract period with HUD, unencumbered economic development set-aside funds be awarded to any approved projects that were not funded in the most recent NOFA period.

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grantee, *may shall* be utilized by the city or county grantee for *any an* activity currently eligible under federal law and regulations, provided that the department determines that the beneficiary or grantee has complied reasonably with the terms and conditions described in the contract between the grantee and the department.

~~(c) Any economic development set-aside of funds not encumbered for funding of a project by the end of the federal contract period shall revert to the general program and be set aside for use if approved projects for which no funds are available are pending.~~

~~(d) The department shall conditionally commit economic development allocations to projects that meet the requirements of this chapter up front, contingent upon the applicant receiving those other funding commitments necessary to complete the project.~~

TB Summary and What This Means

Also removes the ability of HCD to conditionally commit funds to economic development projects that do not yet have the required funding commitments to achieve the project.

**What this means for non-entitlement jurisdictions:**

Applicants can now access information on the website about how economic development applicants are assessed for funding. The information will be enhanced as information is available; however, interested jurisdictions will still have to go to the website for the information.

Grantees will be required to use Program Income (PI) to fund CDBG-eligible activities rather than either 1) accumulate the PI without regard to the need to spend it, or 2) return the PI to the state to award in the next NOFA.

Non-entitlement jurisdictions will no longer be allowed to submit applications for economic development activities that do not have other funding commitments necessary to complete the activity.

**What this means for HCD:**

Access to application instructions for economic development set-aside funds are already made available on the website; however, the success of applicants to receive an economic development award can only reflect the ability of the applicant to comply with all aspects of the application process and present an application reflecting a ready project. The workload associated with this provision is difficult to determine but may be negligible.

Because of the change in Section 50827(a) clarifying that unencumbered economic development set-aside funds can be

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awarded to other unfunded applications for the general program, section (c) is no longer necessary.

HCD will no longer be expected to fund economic development projects that are not yet ready with other funding commitments.

## Appendix II: Definitions

For purposes of this CDBG Report to the Legislature, the terms below have the following definitions:

Colonia Allocation: Distressed jurisdictions within 150 miles of the California-Mexico border that contain Colonia as defined by the National Affordable Housing Act of 1990. Five (5) percent of the available funds in a NOFA are made available for Colonia awards.

Fifty (50) Percent Rule: Except for Economic Development contracts, grantees with open contracts executed in 2012 or later for which the expenditure deadline has not yet passed cannot apply for additional CDBG funds unless at least 50 percent of the total amount of funds they have been awarded has been expended. The Director of HCD may approve a waiver of the 50 Percent Expenditure Rule in limited circumstances.

Low and Moderate Income: Low income in CDBG is at or below 50 percent of area median income (AMI) as determined by HUD and adjusted for California. Moderate income is above 50 percent and at or below 80 percent of AMI.

National Objective: The use of CDBG funds must meet one of three National Objectives: 1) benefit to low- and moderate-income persons, 2) aid in the prevention or elimination of slums and/or blight, or 3) address an urgent need.

Native American Allocation: Allocation set-aside for high concentration of Native American (not recognized as Native American Tribes by Public Law 93-638) communities located within eligible non-entitlement cities and counties.

Non-Entitlement Jurisdiction: Any California city or county that does not participate in and is not eligible to participate in the HUD CDBG Entitlement Program.

Notice of Funding Availability (NOFA): Notice issued by HCD to announce the amount of CDBG funds available in a grant cycle, the allowable purpose(s) for use of the funds, the parameters for funding, and the instructions for qualifying and applying for funds.

Planning Grant: CDBG grant of up to \$100,000 for completing a community development or economic development planning study.

Program Income (PI): Gross income received by a CDBG grantee or its subgrantee(s) that is directly generated from the use of CDBG Program funds. PI is typically the result of repayment of loans made by the local jurisdiction.

Supplemental Activities: Supplemental Activities (SA) allow grantees to identify additional eligible projects or programs and fund these projects or programs using PI funds. SAs do not receive an award of grant funds; grant funds “waterfall” and become available for use on SAs after PI is depleted, allowing the grantee to fully utilize both

grant and PI funds. SAs also allow grantees to undertake activities that would not be competitive in the NOFA process but are important to the jurisdictions' overall community and/or economic development plans.

## Appendix III

### Community Development Block Grant Redesign Working Group (RWG)

Lorie Ann Adams  
Principal  
Adams Ashby Group  
[ladams@adamsashbygroup.com](mailto:ladams@adamsashbygroup.com)

Amy Bergstrand  
Management Analyst III  
City of Oroville  
[bergstrand@cityoforoville.org](mailto:bergstrand@cityoforoville.org)

Danielle Brandon  
Principal Program Budget Analyst  
CA Department of Finance  
[danielle.brandon@dof.ca.gov](mailto:danielle.brandon@dof.ca.gov)

Dan Carrigg  
Deputy Executive Director  
California League of Cities  
[carriggd@cacities.org](mailto:carriggd@cacities.org)

Rob Choate  
Administrative Services Associate  
Health and Human Services Agency  
Nevada County  
[rob.choate@co.nevada.ca.us](mailto:rob.choate@co.nevada.ca.us)

Esperanza Colio  
Imperial County Community and Economic Development Manager  
Imperial County  
[esperanzacolio@co.imperial.ca.us](mailto:esperanzacolio@co.imperial.ca.us)

Terry Cox  
Community Development Specialist  
Cox Consulting  
[cox\\_consulting@sbcglobal.net](mailto:cox_consulting@sbcglobal.net)

Tina Daley  
Deputy Secretary of Fiscal Policy and Administration  
CA Business, Consumer Services, and Housing Agency  
[Tina.Daley@bcsh.ca.gov](mailto:Tina.Daley@bcsh.ca.gov)

Jennifer Dart  
Community Development Specialist  
City of Arcata  
[jdart@cityofarcata.org](mailto:jdart@cityofarcata.org)

C.J. Freeland  
Community Development Services  
Planning and Building Department  
El Dorado County  
[cynthia.freeland@edcgov.us](mailto:cynthia.freeland@edcgov.us)

James Hacker  
Consultant  
CA Senate Budget and Fiscal Review Committee  
[james.hacker@sen.ca.gov](mailto:james.hacker@sen.ca.gov)

Robert Holmlund  
Director  
Development Services  
City of Eureka  
[rholmlund@ci.eureka.ca.gov](mailto:rholmlund@ci.eureka.ca.gov)

Rachelle Kellogg  
Community Development Director  
City of Sonora  
[rkellogg@sonoraca.com](mailto:rkellogg@sonoraca.com)

Thomas Last  
Community Development Director  
City of Grass Valley  
[toml@cityofgrassvalley.com](mailto:toml@cityofgrassvalley.com)

Susan Long  
Program Director, Partner Services  
Self-Help Enterprises  
[susanl@selfhelpenterprises.org](mailto:susanl@selfhelpenterprises.org)

David Loya  
Community Development Director  
City of Arcata  
[dloya@cityofarcata.org](mailto:dloya@cityofarcata.org)

Jeff Lucas  
Principal  
Community Development Services  
[jefflucas@mchsi.com](mailto:jefflucas@mchsi.com)

Jessaca Lugo  
Community and Economic Development Manager  
City of Shasta Lake  
[jlugo@cityofshastalake.org](mailto:jlugo@cityofshastalake.org)

Heather MacDonald  
Associate Management Analyst, Community and Economic Development  
Butte County  
[HmacDonald@buttecounty.net](mailto:HmacDonald@buttecounty.net)

Megan Mahaffey  
Department of Finance  
County of Mono  
[mmahaffey@mono.ca.gov](mailto:mmahaffey@mono.ca.gov)

Genevieve Morelos  
Consultant  
Assembly Budget Committee  
[genevieve.morelos@asm.ca.gov](mailto:genevieve.morelos@asm.ca.gov)

Robert Mansfield  
Madera Community and Economic Development Department  
Madera County  
[robert.mansfield@madera-county.com](mailto:robert.mansfield@madera-county.com)

Mary Pitto  
Regulatory Affairs Advocate  
Rural County Representatives of California  
[mpitto@rccrcnet.org](mailto:mpitto@rccrcnet.org)

Paul Ramey  
Legislative Director  
Assemblymember Jim Wood – District 2  
[Paul.Ramey@asm.ca.gov](mailto:Paul.Ramey@asm.ca.gov)

Scott Rogalski  
Associate Director, Partnerships  
Northern CA SBDC Networks  
[scott@stratosbdc.com](mailto:scott@stratosbdc.com)

Gurbax Sahota  
President and Chief Executive Officer  
California Association for Local Economic Development  
[gsahota@caled.org](mailto:gsahota@caled.org)

Craig Schlatter  
Community Development Director  
City of Ukiah  
[cschlatter@cityofukiah.com](mailto:cschlatter@cityofukiah.com)

Meagan Tokunaga  
Finance Budget Analyst  
CA Department of Finance  
[Meagan.Tokunaga@dof.ca.gov](mailto:Meagan.Tokunaga@dof.ca.gov)

Lynn Von Koch-Liebert  
Deputy Secretary of Housing and Consumer Relations  
Business, Consumer Services, and Housing Agency  
[Lynn.VonKoch-Liebert@bcsh.ca.gov](mailto:Lynn.VonKoch-Liebert@bcsh.ca.gov)

Ashley Werner  
Leadership Council for Justice and Accountability  
[awerner@leadershipcounsel.org](mailto:awerner@leadershipcounsel.org)

Chris Westlake  
Principal  
Westlake Consulting  
[chris@chriswestlake.net](mailto:chris@chriswestlake.net)

## Technical Assistance Providers

Ron Bauer, Consultant  
[Ron.bauer@hcd.ca.gov](mailto:Ron.bauer@hcd.ca.gov)

Patrick Jordan  
Enterprise Community Partners  
[pjordan@enterprisecommunity.org](mailto:pjordan@enterprisecommunity.org)

Kathleen Weissenberger  
KW Consultants  
[kathleen@kw-consultants.com](mailto:kathleen@kw-consultants.com)

## HCD Staff

Jeri Amendola, HCD Representative  
[Jeri.amendola@hcd.ca.gov](mailto:Jeri.amendola@hcd.ca.gov)

Lisa Bates, Deputy Director  
[Lisa.bates@hcd.ca.gov](mailto:Lisa.bates@hcd.ca.gov)

John De Rosa, Counsel  
[John.DeRosa@hcd.ca.gov](mailto:John.DeRosa@hcd.ca.gov)

Niki Dhillon, Branch Chief  
[Niki.dhillon@hcd.ca.gov](mailto:Niki.dhillon@hcd.ca.gov)

Evan Gerberding, Deputy Director  
[Evan.gerberding@hcd.ca.gov](mailto:Evan.gerberding@hcd.ca.gov)

Charles Gray, Manager  
[Charles.gray@hcd.ca.gov](mailto:Charles.gray@hcd.ca.gov)

Nicolé McCay, Section Chief  
[Nicole.mccay@hcd.ca.gov](mailto:Nicole.mccay@hcd.ca.gov)

Jim Miwa, HCD Representative  
[Jim.miwa@hcd.ca.gov](mailto:Jim.miwa@hcd.ca.gov)

Diane Moroni, HCD Representative  
[Diane.moroni@hcd.ca.gov](mailto:Diane.moroni@hcd.ca.gov)

Maziar Movassaghi, Assistant Deputy Director  
[Maziar.movassaghi@hcd.ca.gov](mailto:Maziar.movassaghi@hcd.ca.gov)

Karen Patterson, Section Chief  
[Karen.patterson@hcd.ca.gov](mailto:Karen.patterson@hcd.ca.gov)

Ginny Puddefoot, Assistant Deputy Director  
[Ginny.puddefoot@hcd.ca.gov](mailto:Ginny.puddefoot@hcd.ca.gov)

Leticia Ramos, HCD Representative  
[Leticia.ramos@hcd.ca.gov](mailto:Leticia.ramos@hcd.ca.gov)

Gwyn Reese, Manager  
[Gwyn.reese@hcd.ca.gov](mailto:Gwyn.reese@hcd.ca.gov)

Claudia Sharygin, Specialist  
[Claudia.Sharygin@hcd.ca.gov](mailto:Claudia.Sharygin@hcd.ca.gov)

Patrick Talbott, HCD Representative  
[Patrick.talbott@hcd.ca.gov](mailto:Patrick.talbott@hcd.ca.gov)

Chris Webb-Curtis, Specialist  
[Chris.webb-curtis@hcd.ca.gov](mailto:Chris.webb-curtis@hcd.ca.gov)

## Appendix IV: Comparison of State and Federal CDBG Regulations

**TO:** State of California Department of Housing and Community Development  
**FROM:** Enterprise Advisors  
**DATE:** January 12, 2018  
**RE:** Comparative Analysis of State and Federal Regulations

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### Background and Methodology

As a component of the U.S. Department of Housing and Urban Development (HUD) Technical Assistance Work Plan for the State of California Community Development Block Grant (CDBG) program, Enterprise Advisors prepared a comparative analysis of California Code of Regulations Title 25 §7050-7126 and 24 Code of Federal Regulations Part 570 Subpart I.

In addition, Enterprise has been asked to compile a list of areas where HCD may be interpreting or applying those state and federal regulations more stringently than necessary. This review of policies consisted of reviewing HCD CDBG documents, including the CDBG Grants Management Manual, Management Bulletins, NOFA documents and Checklists of General Conditions. The review process also included attendance at CDBG Redesign Working Group meetings on October 6, December 8, 2017 and conference calls on October 30, November 3, and November 17, 2017. In addition, phone conversations were held with Karen Patterson of HCD and Terry Cox of Cox Consulting.

### Observations and Recommendations

#### 1) Allocation and Awards

- a. Set-asides are a common practice in state programs. To ensure timely expenditure of funds, HCD should look at the timing of the release of those funds to other activity types as soon as allowable under state regulations.
- b. Currently, HCD received applications on December 1st for 2017 Program Year (PY) funds. PY2017 funds were delayed by HUD this year, which, hopefully, is a singular event.

Beginning in 2012, HCD scheduled the release of the CDBG NOFA in January, with awards being made subject to fully executing the HUD agreement for the funds. The September 2015 Realignment caused the NOFA cycle to move from the January release window. HCD should consider returning to releasing the CDBG NOFA in January, which

will also take the “construction season” (if applicable) into account in the award/approval of funds.

- c. HCD will need to be more cognizant of milestones and deadlines as unexpended PY2015 funds and forward will be swept by HUD in 2022, which is not very far away.

## 2) Program Income:

- a. HCD is currently requiring all Program Income (PI) on hand to be spent per draw request regardless of the activity for which claims are requested. Although this has the appearance of reducing PI on hand for active grantees, it increases the unexpended treasury funds balance.
- b. HCD requires that a grantee have an “open contract” to expend PI. This is currently interpreted as either an open Standard Agreement with obligated treasury funds requiring a “supplemental” application to be added to the Standard Agreement, OR an approved PI Waiver contract with an open PI Reuse Agreement (currently open for 10 years). The process and its impact on expenditure of funds is somewhat complex.

If an UGLG has an open PI Re-Use agreement, PI on hand is utilized on approved waiver projects until the PI balance is \$0. If an UGLG has an open Standard Agreement with “PI supplemental activities,” the UGLG applies PI to costs for whichever activity(ies) come up first (grant or PI). Grant funds “waterfall” and become available to be used on PI supplemental activities as PI is expended on grant funded activities (if PI is not spent on grant activities, no grant funds can be drawn for PI Supplemental activities), Should additional PI be received by the UGLG during the life of the Standard Agreement contract they must use those funds first. NOTE: Having a PI Reuse Agreement in place does not restrict an UGLG to apply for grant funds; PI supplemental activities must be included in the Standard Agreement or grant funds cannot reimburse their costs.

In some instances, this severely impacts the expenditure of treasury funds. The process itself is extremely time consuming for both HCD and UGLGs. Much more review will need to be conducted on this process before any reasonable recommendations can be made.

- c. HCD does not require grantees to return PI to the State. PI which is deemed by HCD to be in non-compliance with 24 CFR 570.489(e)(3)(ii)(A) as “unlikely to be applied to continue the activity within the reasonably near future” could be returned to the state or allocated to another UGLG project. HCD could establish a timeframe in the Consolidated/Action Plan that limits how long UGLGs may retain funds on hand without progress on the activity (such as expenditure of funds) before they are required to return them to HCD for reallocation.

### 3) Readiness Requirements:

- a. The State regulations currently have specified evaluation criteria for applications under each category of funding. However, the specific criteria used per project type is not directly related to the readiness of the project to proceed, (e.g., environmental review completed, site control, financing, preliminary design, etc.). Operator experience currently is included as an evaluation criterion; however, it is not a readiness factor, but rather a capacity factor. It does not appear that HCD is actually reviewing readiness as a component of scoring.
- b. HCD currently requires UGLGs to complete a General Conditions Checklist (per project type) prior to Release of Funds. However, there is no time limit for UGLGs to complete the general conditions. The time to complete the general conditions is often protracted in part because HCD does not have a process for allowing/reimbursing pre-agreement costs or a requirement for a local funding match. That means, UGLGs often do not start the process of completing the general conditions--including design, financing, procurement of consultants, etc.--until after award. HCD should consider allowing/reimbursing pre-agreement costs and/or requiring a local match to expedite the completion of the general conditions and the implementation of the activity upon award. For example, HCD could issue approval for the UGLG to undertake (and be reimbursed for) pre-agreement steps (such as environmental review) on all exempt activities at their own risk until final clearance of the General Conditions Checklist.
- c. As stated above, many UGLGs do not begin steps such as design, environmental review, and financing until after award. And because there are no readiness requirements or criteria for evaluation in the applications, frequently, it only becomes apparent the proposed activity is not feasible as planned after award has been made. HCD currently allows the UGLG to completely change the activity and start over without de-obligation of awarded funds. It is presumed that having to start over with a completely new activity would delay the timeline and have a huge impact on the rate of expenditures.

### 4) Eligible Activities:

- a. The State regulations appear to limit the eligible activities that may be undertaken with CDBG funds. If deemed eligible, many of these activities, including fast spending activities like environmental remediation or demolition (currently only allowed as a portion of a project, not as a stand-alone activity) would improve the expenditure of funds. In addition, Supplemental activities are further restricted.
- b. Planning-only activities are restricted to the LMA national objective. Expanding the allowable national objectives and greater use of planning-only activities could increase expenditures.

## 5) Administrative Cap

- a. Currently, HCD does not allow UGLGs to retain administration fees on Revolving Loan Funds (RLF) or continuing programs like Owner Occupied Rehabilitation (OOR). This creates an administrative burden on the UGLG to operate a program, compromising its ability to expend funds. Allowing the UGLG to retain general admin will also increase the PI spending.
- b. The State currently allows up to 7.5% of a grant amount to be used for general administration. Nationally, this amount is anywhere between 5 percent and 18 percent. Increasing the amount allowable for general administration will increase expenditures. HCD could consider higher general administration amounts on specific activity types that have a heavier administrative burden.

## 6) Cross-cutting Requirements

- a. The State adopted Part 85 for procurement for UGLG's. Part 85 is now 2 CFR 200. HCD should review its interpretation of the regulations as they are implementing a stricter interpretation than necessary for both RFP/RFQ and Conflict of Interest. However, prescriptive procurement policies can have some advantages, such as reducing the need and time required for review. HCD should consider how best to balance these two elements.
- b. HCD could consider the use of Lump Sum draws and Escrow accounts for programs that meet the requirements at 24 CFR 570.511 and 24 CFR 570.513.

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# APPENDIX IV: Comparative Analysis of State and Federal Community Development Block Grant Regulations<sup>26</sup>

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
<p><b>§ 7050. General.</b></p> <p>The Federal Omnibus Budget Reconciliation Act of 1981 provides for State administration of the Federal Community Development Block Grant Nonentitlement Program. These regulations set forth the policies and procedures governing the State's management and use of these funds. In addition to these regulations, program participants must comply with Federal regulations contained in Title 24 of the Code of Federal Regulations, Part 570, Subpart I. In the event that Congress or the State Legislature add or amend any requirements concerning the use or management of these funds, grantees shall comply with such requirements upon receipt of notice from the Department of the additional requirements.</p>	<p><b>§570.480 General.</b></p> <p>(a) This subpart describes policies and procedures applicable to states that have permanently elected to receive Community Development Block Grant (CDBG) funds for distribution to units of general local government in the state's nonentitlement areas under the Housing and Community Development Act of 1974, as amended (the Act). Other subparts of part 570 are not applicable to the State CDBG program, except as expressly provided otherwise. Regulations of part 570 outside of this subpart that apply to the State CDBG program include §§570.200(j) and 570.606.</p>	<p>State code and Federal regulations are consistent.</p>
<p><b>§ 7052. Primary Objectives.</b></p> <p>The primary objectives of this program are: 1) the development and preservation of cities and counties by providing decent housing and a suitable living environment and expanding economic opportunities, principally for the targeted income group; and 2) not less than fifty-one percent (51%) of the funds made available to the Department pursuant to the program shall be utilized by the Department to make grants to eligible cities or counties for the purpose of providing or improving housing opportunities for the targeted income group or for purposes directly related to the provision or improvement of housing opportunities for the targeted income group including, but not limited to, the construction of infrastructure.</p> <p>Pursuant to Section 104(a)(1) of the Housing and Community Development Act of 1974, as amended, the Department shall annually prepare a statement of community development objectives and projected uses of funds. This statement shall be made available to the public and published, and the Department shall conduct no less than two public hearings at different locations on its contents. The statement shall be</p>	<p><b>§570.480 General.</b></p> <p>(f) In administering the CDBG program, a state may impose additional or more restrictive provisions on units of general local government participating in the state's program, provided that such provisions are not inconsistent with the Act or other statutory or regulatory provisions that are applicable to the State CDBG program.</p> <p>(g) States shall make CDBG program grants only to units of general local government. This restriction does not limit a state's authority to make payments to other parties for state administrative expenses and technical assistance activities authorized in section 106(d) of the Act.</p> <p>(h) Any unexpended CDBG origin year grant funds in the United States Treasury account on September 30 of the fifth Federal fiscal year after the end of the origin year grant's period of availability for obligation by HUD will be canceled. HUD may require an earlier expenditure and draw down deadline under a grant agreement.</p>	<p>Federal regulations do not require the State to set-aside 51% of the funds made available to the Department for the purpose of providing or improving housing opportunities or for purposes directly related to the provision or improvement of housing opportunities including, but not limited to, the construction of infrastructure.</p> <p>§7050-7052 does not explicitly incorporate the §570.480(g) requirement that the State may only make CDBG program grants to units of general local government; however, § 7060(a)(1) incorporates this requirement.</p> <p>§7050-7052 does not address the §570.480(h) expiring funds requirement five FFY after the end of the origin year grant's period of availability.</p>

<sup>26</sup> This analysis was prepared by Enterprise Community Partners and was submitted to the CA Department of Housing and Community Development on January 4, 2018.

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
<p>available for review for at least thirty (30) days prior to the public hearings.</p>		<p>HUD does not currently include a requirement for earlier expenditure and draw down in California's CDBG grant agreements but has intimated adding conditions to the State's 2019 grant agreement.</p>
<p><b>§ 7054. Definitions.</b></p> <p>“Act” means Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended.</p> <p>“Activity” means any single eligible undertaking carried out as part of an applicant's program under the State CDBG Program.</p> <p>“Applicant” means any eligible city or county that applies for funds pursuant to this subchapter as set forth in Section 7060.</p> <p>“CFR” is the acronym used for the Code of Federal Regulations.</p> <p>“Chief executive officer” of a unit of local government means the mayor of a city, the chairman of a county board of supervisors, or the official designated pursuant to law by the governing body of the unit of general local government who has the primary responsibility for the conduct of that unit's governmental affairs.</p> <p>“CDBG” means the Community Development Block Grant program as created by the Act.</p> <p>“Community Development Block Grant Funds,” “CDBG Funds,” or “Grant Funds” means any funds allocated by a grant agreement pursuant to this subchapter or previously funded to nonentitlement jurisdictions by HUD pursuant to their authority under the Act.</p> <p>“Department” means the State of California Department of Housing and Community Development.</p> <p>“Director” means the Director of the Department.</p> <p>“Economic Development Allocation” means the funds set aside each year for economic development pursuant to Health and Safety Code Section 50827 and Section 7062.1.</p> <p>“Economic Development”, and “ED” for the purpose of these regulations, means providing grants to non-entitlement jurisdictions to conduct CDBG eligible activities as defined in 42 USC 5305.</p>	<p><b>§570.481 Definitions.</b></p> <p>(a) Except for terms defined in applicable statutes or this subpart, the Secretary will defer to a state's definitions, provided that these definitions are explicit, reasonable and not plainly inconsistent with the Act. As used in this subpart, the following terms shall have the meaning indicated:</p> <p>(1) Act means title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).</p> <p>(2) CDBG funds means Community Development Block Grant funds, in the form of grants under this subpart including any reimbursements, program income, and loans guaranteed under section 108 of the Act.</p> <p>(3) Origin year means the specific Federal fiscal year during which the annual grant funds were appropriated.</p> <p>(b) [Reserved]</p>	<p>§ 7054 of State code and §570.481 are consistent except as otherwise noted.</p> <p>Definitions found at § 7054 of State code are consistent with the Act except as otherwise noted.</p> <p>Origin year is not defined in § 7054.</p>

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<p>“Federal regulations” means the federal regulations governing the State administration of the Community Development Block Grant nonentitlement funds set forth in the Code of Federal Regulations, Title 24, Part 570, Subchapter C, Subpart I, commencing with Section 570.480.</p> <p>“Funding” means financial assistance provided in whole or in part for any eligible activity.</p> <p>“Funding Cycle” means the annual period of time during which HUD makes funds available to the State for distribution to local governments pursuant to the Act, and includes the period of time during which the Department solicits applications and makes grant awards.</p> <p>“General” means all activities, other than Economic Development activities, eligible under 42 USC 5305 and 24 CFR 570.482. “General” as defined here can also refer to “Community Development”.</p> <p>“Grant Agreement” means the contractual arrangement between the State and the Grantee which sets forth the terms and conditions by which State CDBG funds are utilized.</p> <p>“Grantee” means a unit of general local government which has been awarded funds provided pursuant to this subchapter to carry out a program.</p> <p>“Household” means persons occupying a housing unit as the place of residence.</p> <p>“Housing Element” means the part of a city or county's General Plan as required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.</p> <p>“HUD” means the United States Department of Housing and Urban Development.</p> <p>“Infrastructure” means the physical systems such as roads, sidewalks, streetlights, water and sewer facilities which are necessary to provide basic community services.</p> <p>“Lowest Targeted Income Group” means persons and households with incomes less than 50 percent of the latest HUD estimated area median family income who are intended to be beneficiaries of the State CDBG Program.</p> <p>“Microenterprise” means a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.</p> <p>“NOFA” is the acronym used for Notice of Funding Availability. The NOFA is the document used by the Department to announce that CDBG funds are available and applications may be submitted.</p>		<p>Although the State is not required to use the § 570.3 Definitions, consider updating “Household” to mean: all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.</p>

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<p>“Overpaying” means households which are paying more than 30% of their gross household income for housing costs, including utilities. Data used to document overpaying includes the percentage of renters who pay more than 30% of household income for gross rent, including utilities, and the percentage of homeowners who pay more than 30% of household income for selected housing costs, including utilities, based on the latest available U.S. Census data.</p> <p>“Over-the-Counter” or “OTC” means an allocation of Economic Development funds designated for large business assistance or infrastructure in support of business projects.</p> <p>“OMB” means the federal Office of Management and Budget.</p> <p>“Permanent job” means a full-time or full-time equivalent job created or retained by an activity funded under the Economic Development Allocation which is directly related to the expansion or retention of a business. To be considered “full-time” a job must provide at least 1,750 hours per year. Part-time jobs that provide at least 875 hours per year of employment may be aggregated to arrive at a full-time equivalent job of at least 1,750 hours per year.</p> <p>“Poverty Persons” means individuals whose incomes are below the poverty level based on the latest available U.S. Census data.</p> <p>“Program” means all of the activities funded in whole or in part included in an application which are funded under this subchapter.</p> <p>“State” means the State of California.</p> <p>“Targeted Income Group” or “TIG” means persons or households with low to moderate income (Low/Mod) as defined in 42 USC 5302(a)(20). “TIG” as defined here can also be referred to as “Low/Mod”.</p> <p>The following definitions are described in Section 7078(d)(10)</p> <p>“3rd Party Documentation”</p> <p>“Activity Specific Operator Experience”</p> <p>“Age of Housing”</p> <p>“All Funding in Place”</p> <p>“Condition of Approval for PIHNC”</p> <p>“Cooperation/Compliance in Clearing Audit or Monitoring Findings”</p> <p>“Experienced In-House Staff”</p> <p>“Extent of the Solution”</p> <p>“Homeownership Rate”</p> <p>“In-House Organizational Capacity”</p> <p>“Low-Mod Percentage”</p> <p>“Market Analysis”</p> <p>“Operator Experience / Program Readiness”</p>		<p>The State definition of “Lowest Targeted Income Group” is consistent with the Federal definition of “Low Income”</p>

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<p>“Overcrowding”  “Poverty Percentage”  “Project Approval Status”  “Program Description”  “Program Guidelines”  “Program Operator Qualifications”  “Program Operator’s Status”  “Ready to Start”  “Regional Housing Needs Assessment / RHNA Data”  “Rental Vacancy Rate”  “Reporting Points”  “Seriousness of Health and Safety Threat”  “Severity of the Problem”  “Site Control”  “Site Control of Facility for Program”  “Site Control of Land for Project”  “Timely Clearance of Special Conditions”  “Unemployment “  “Waiting List of Pre-Screened Applicants”</p>		<p>The State definition of “Targeted Income Group” is consistent with the Federal definition of “Moderate Income” at 80 percent of Area Median Income.</p>
<p><b>§ 7056. Funding Availability.</b></p> <p>(a) Within a funding cycle, the Department may issue one or more NOFAs.</p> <p>(b) The NOFA shall specify, among other things, the maximum amounts of funds available, the activities eligible, the time frame for submittal of applications, the application requirements pursuant to Section 7070, the allocation of rating points pursuant to Section 7078, the matching contribution requirements pursuant to Section 7058(a)(5)(A) any prohibitions of uses of funds, the availability of administrative funds, and the general terms and conditions of funding allocations.</p> <p>(c) In order to comply with any set-aside established by HUD or the Department, or special allocation made by HUD, the Department may do one or more of the following:</p> <ol style="list-style-type: none"> <li>(1) Issue a special NOFA</li> <li>(2) Specify in each NOFA the reservation of a portion of the funds; and</li> <li>(3) Specify in each NOFA any waivers to requirements granted by HUD in connection with the funds.</li> </ol>	<p><b>§570.485 Making of grants.</b></p> <p>(a) Required submissions. In order to receive its annual CDBG grant under this subpart, a State must submit a consolidated plan in accordance with 24 CFR part 91. That part includes requirements for the content of the consolidated plan, for the process of developing the plan, including citizen participation provisions, for the submission date, for HUD approval, and for the amendment process.</p> <p>(b) Failure to make submission. The state’s failure to make the submission required by paragraph (a) of this section within the prescribed deadline constitutes the state’s election not to receive and distribute amounts allocated for its nonentitlement areas for the applicable fiscal year. Funds will be either:</p> <ol style="list-style-type: none"> <li>(1) Administered by HUD pursuant to subpart F of this part if the state has not administered the program in any previous fiscal year; or</li> </ol>	<p>State code does not address §570.485 in terms of what the Department must do in order to receive CDBG funds from HUD, including the Consolidated Plan, Action Plans with Method of Distribution and CAPERS.</p>

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	<p>(2) Reallocated to all states in the succeeding fiscal year according to the formula of section 106(d) of the Act, if the state administered the program in any previous year.</p> <p>(c) Approval of grant. HUD will approve a grant if the State's submissions have been made and approved in accordance with 24 CFR part 91, and the certifications required therein are satisfactory to the Secretary. The certifications will be satisfactory to the Secretary for this purpose unless the Secretary has determined pursuant to §570.493 that the State has not complied with the requirements of this subpart, or has determined that there is evidence, not directly involving the State's past performance under this program, that tends to challenge in a substantial manner the State's certification of future performance. If the Secretary makes any such determination, however, the State may be required to submit further assurances as the Secretary may deem warranted or necessary to find the grantee's certification satisfactory.</p> <p>(d) Specific conditions.—HUD may impose additional specific award conditions on States in accordance with 2 CFR 200.207.</p>	
<p><b>§ 7058. Eligible Activities.</b></p> <p>(a) Eligible Activities: Activities eligible for funding under State CDBG Program are those described in 24 CFR 570.482 and in Section 105(a) of the Housing and Community Development Act of 1974 (42 USC 5305):</p> <p>(1) Housing Assistance - Single Family Residence (1-4 units) or Multi-Family Housing (5 or more units) - Acquisition, Rehabilitation, New Construction;</p> <p>(2) Public Facilities - Acquisition, Rehabilitation, Construction;</p> <p>(3) Infrastructure and Infrastructure in Support of Housing;</p> <p>(4) Public Services - Certain costs associated with providing services including but not limited to Child Care, Health Care, and Job Training.</p> <p>(5) Planning and Technical Assistance - Costs associated with completing a planning study.</p> <p>(A) Pursuant to Health and Safety Code 50833(a) the cash match amount is five percent (5%) of the Planning and Technical Assistance grant amount applied for.</p>	<p><b>§570.482 Eligible activities.</b></p> <p>(a) General. The choice of activities on which block grant funds are expended represents the determination by state and local participants, developed in accordance with the state's program design and procedures, as to which approach or approaches will best serve these interests. The eligible activities are listed at section 105(a) of the Act.</p> <p>(b) Special assessments under the CDBG program. The following policies relate to special assessments under the CDBG program:</p> <p>(1) Public improvements initially assisted with CDBG funds. Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:</p>	<p>Each of the activity types included at § 7058(a) are eligible activities listed in the Act.</p> <p>With respect to § 7058(a)(5)(A), Federal regulations do not require a five percent match for planning grants to units of general local government.</p>

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<p>(6) Economic Development including Business Assistance and Micro Enterprise Assistance.</p> <p>[b and c continued]</p>	<p>(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. These assessments constitute program income.</p> <p>(ii) Special assessments to recover the non-CDBG portion may be made, provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if, when permitted by the state, the unit of general local government certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.</p> <p>(2) Public improvements not initially assisted with CDBG funds. CDBG funds may be used to pay special assessments levied against property when this form of assessment is used to recover the capital cost of eligible public improvements initially financed solely from sources other than CDBG funds. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments, provided that:</p> <p>(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this subpart, including labor, environmental and citizen participation requirements;</p> <p>(ii) The installation of the public improvement meets a criterion for national objectives. (See §570.483(b)(1), (c), and (d).)</p> <p>(iii) The requirements of §570.482(b)(1)(ii) are met.</p> <p>(c) Special eligibility provisions. (1) Microenterprise development activities eligible under section 105(a)(23) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.) (the Act) may be carried out either through the recipient directly or</p>	<p>§570.482(b) includes special policies concerning the use of special assessments in making public improvements. § 7058 of the State code does not provide for the use of special assessments for public improvements.</p>

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	<p>through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients).</p> <p>(2) Provision of public services. The following activities shall not be subject to the restrictions on public services under section 105(a)(8) of the Act:</p> <p>(i) Support services provided under section 105(a)(23) of the Act, and paragraph (c) of this section;</p> <p>(ii) Services carried out under the provisions of section 105(a)(15) of the Act, that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and</p> <p>(iii) Services of any type carried out under the provisions of section 105(a)(15) of the Act pursuant to a strategy approved by a state under the provisions of §91.315(e)(2) of this title.</p> <p>(3) Environmental cleanup and economic development or redevelopment of contaminated properties. Remediation of known or suspected environmental contamination may be undertaken under the authority of section 205 of Public Law 105-276 and section 105(a)(4) of the Act. Economic development activities carried out under sections 105(a)(14), (a)(15), or (a)(17) of the Act may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination.</p> <p>(4) Housing counseling, as defined in 24 CFR 5.100, that is funded with or provided in connection with CDBG funds must be carried out in accordance with 24 CFR 5.111.</p> <p>(5) Broadband infrastructure in housing. Any new construction or substantial rehabilitation, as substantial rehabilitation is defined by 24 CFR 5.100, of a building with more than 4 rental units, for which CDBG funds are first obligated by the State's grant recipient on or after July 18, 2017, must include installation of broadband infrastructure, as this term</p>	

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	<p>is also defined in 24 CFR 5.100, except where the State or the State's grant recipient determines and documents the determination that:</p> <p>(i) The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;</p> <p>(ii) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or</p> <p>(iii) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.</p>	
<p><b>§ 7058. Eligible Activities.</b></p> <p>(b) Each activity must meet all benefit requirements of 24 CFR 570.483 and 24 CFR 570.484 by the end of the contract term.</p> <p>(1) At least fifty-one percent (51%) of the funds awarded shall benefit the targeted income group. No activity or portion of a program assisted by these funds may exclude from its benefits the lowest targeted income group. Individual activities shall meet one of the following three national objectives: (1) the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income; (2) aiding in the prevention or elimination of slums or blight; or (3) meeting other community development needs having a particular urgency.</p> <p><b>(A) For the purposes of this section, “slums” and “blight” means a blighted area or structure characterized by one or more of the following conditions: (1) the buildings and structures, used or intended to be used for living, commercial, industrial, or other purposes, which are unfit to occupy for such purposes and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, (2) high crime rate and (3) other conditions listed in Health and Safety Code Section 33031; and (4) properties which suffer from economic dislocation, deterioration, or disuse because of factors listed in Health and Safety Code, Section 33031. [Hyperlink added to HSC 33031]</b></p> <p><b>(B) For the purposes of this section, an activity will be considered to address the standard of urgency if the applicant certifies that the</b></p>	<p><b>§570.483 Criteria for national objectives.</b></p> <p>[Incorporated into State code by reference at § 7058(b) and not repeated here]</p>	<p>24 CFR 570.483 “Criteria for national objectives” is incorporated into State code at § 7058(b).</p>

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<p>activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the applicant is unable to finance the activity on its own, and that other sources of funding are not available to meet such needs. For the purposes of this section, any condition which has existed longer than eighteen (18) months prior to the final filing date for applications shall not be considered to meet the standard of urgency.</p> <p>(c) Each Economic Development activity must meet all benefit requirements listed in Section 7062.1(a)(1) and (2).</p>		
<p><b>§ 7060. Eligible Applicants.</b></p> <p>(a) The applicant shall have met the following requirements when the application is submitted:</p> <p>(1) Any city or county is eligible to apply for the State CDBG Program except a city or county which participates in or is eligible to participate in the HUD administered Community Development Block Grant Entitlement Program.</p> <p>(2) The applicant shall submit all the application information required in Section 7062.1 and Section 7070 as applicable.</p> <p>(3) Beginning with the 2013 NOFA, an applicant with one or more current CDBG grant agreements signed in 2012 or later, for which the expenditure deadline established in the grant agreement(s) has not yet passed, shall be ineligible to apply for any additional CDBG funds unless the applicant has expended at least fifty percent (50%) of CDBG funds awarded in 2012 and later. The requirements of this subsection do not apply to Economic Development Over-the-Counter Funds.</p> <p>(4) The applicant must demonstrate to the satisfaction of the Department that it is in compliance with the submittal requirements of OMB A-133, Single Audit Report.</p> <p>(5) The applicant must have complied with all the Housing Element requirements listed in Health and Safety Code Section 50830. [Hyperlink added to HSC 50830]</p>	<p><b>§570.480 General.</b></p> <p>(g) States shall make CDBG program grants only to units of general local government. This restriction does not limit a state's authority to make payments to other parties for state administrative expenses and technical assistance activities authorized in section 106(d) of the Act.</p> <p><b>§570.489 Program administrative requirements.</b></p>	<p>§ 7060(a)(1) and (2) are consistent with Federal regulations.</p> <p>§ 7060(a)(3) prohibits applications for housing and infrastructure in situations where an applicant has not expended at least 50% of the awarded funds under a current grant agreement that has not reached its expenditure deadline. It is understood that the Department may waive this requirement under certain circumstances. State code or CDBG Program Guidelines could provide more objectively determinable criteria for such waivers.</p> <p>§ 7060(a)(4) of State code is consistent with §570.489(n) of Federal regulations.</p> <p>§ 7060(a)(5) conditions eligibility to apply for CDBG funds upon meeting other State housing planning requirements, potentially limiting the number of applicants that are eligible to apply for CDBG funds.</p>

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<p>(b) Applications may be submitted by individual eligible applicants or by groups of eligible applicants in any of the following forms. Except as provided in Subsection (c) below, no eligible applicant may be included in more than one application that provides direct program benefits to that political subdivision. Applications for eligible activities outside the applicant's jurisdiction must include a joint powers agreement with the city or county in which the eligible activity is located.</p> <p>(1) An eligible applicant may apply on its own behalf.</p> <p>(2) An eligible applicant may apply on its own behalf and in the same application on behalf of one or more other eligible applicants.</p> <p>(3) Two or more eligible applicants which share a program may submit a joint application.</p> <p>(c) In addition to General and ED activity and application limits identified in the NOFA, an eligible applicant may apply for activities in target areas within or outside of the applicant's jurisdiction when there are concentrations of Native Americans as described in Section 7062 provided the concentration is within an eligible city or county.</p>	<p>(n) Audits. Notwithstanding any other provision of this title, audits of a State and units of general local government shall be conducted in accordance with 2 CFR part 200, subpart F, which implements the Single Audit Act. States shall develop and administer an audits management system to ensure that audits of units of general local government are conducted in accordance with 2 CFR part 200, subpart F.</p> <p><b>§570.486 Local government requirements.</b></p> <p>(b) Activities serving beneficiaries outside the jurisdiction of the unit of general local government. Any activity carried out by a recipient of State CDBG program funds must significantly benefit residents of the jurisdiction of the grant recipient, and the unit of general local government must determine that the activity is meeting its needs in accordance with section 106(d)(2)(D) of the Act. For an activity to significantly benefit residents of the recipient jurisdiction, the CDBG funds expended by the unit of general local government must not be unreasonably disproportionate to the benefits to its residents.</p> <p>(c) Activities located in Entitlement jurisdictions. Any activity carried out by a recipient of State CDBG program funds in entitlement jurisdictions must significantly benefit residents of the jurisdiction of the grant recipient, and the State CDBG recipient must determine that the activity is meeting its needs in accordance with section 106(d)(2)(D) of the Act. For an activity to significantly benefit residents of the recipient jurisdiction, the CDBG funds expended by the unit of general local government must not be unreasonably disproportionate to the benefits to its residents. In addition, the grant cannot be used to provide a significant benefit to the entitlement jurisdiction unless the entitlement grantee provides a meaningful contribution to the project.</p>	<p>§ 7060(b) requirement that no eligible applicant may be included in more than one application may negatively impact the State's expenditure rate.</p> <p>§ 7060(b)(2) and § 7060(c) may conflict with §570.486(b) and (c) depending on the unique circumstances of the proposed project.</p>
<p><b>§ 7062. Special Allocation for Native American Communities.</b></p> <p>Pursuant to the requirements of 24 CFR, Part 1, the Department finds that there are within the State of California, communities principally comprised of low-income Native Americans not recognized as Indian Tribes as defined in Section 102(a)(17) of the Act (the Act defines Indian Tribes as any Indian tribe, band, group, and nation . . . of the United States, which is considered an eligible recipient under the Indian Self-</p>		<p>The special allocation / set-aside for Native American Communities is effectively a function of the Method of Distribution and therefore consistent with 24 CFR Part 570. See additional notes below.</p>

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<p>Determination and Education Assistance Act (Public Law 93-638), or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)). The Department also finds that these communities have, in previous years, received the benefits of the Act primarily through the Department's successful submittal of applications on their behalf. The Department further finds that its inability to continue to apply on behalf of this minority population, caused by the legal constraints of the 1981 amendments to the Act, and the legal ineligibility of these groups to apply on their own behalf for federally- or State-administered CDBG funds, will have the effect of depriving this minority group from participating in the State CDBG Program unless there are some affirmative measures to ensure its participation.</p> <p>(a) Pursuant to the requirements and authority of 24 CFR 1.4(c)(6)(ii) and by the direction of the State Legislature, the Department shall set aside an amount equal to one and one quarter percent (1.25%) of the total State CDBG funds to be granted to eligible applicants for identifiable geographic areas within eligible cities and counties comprised of high concentrations of Native Americans not recognized as Indian Tribes as defined in Section 102(a)(17) of the Act. For the purpose of this section, identifiable geographic areas comprised of high concentrations of Native Americans means identifiable geographic areas comprised of no less than fifty one percent (51%) Native Americans not recognized as an Indian Tribe by the Act. An identifiable geographic area may be defined by locally accepted social, historical, physical, political, or past programmatic boundaries.</p> <p>(b) An application for this set aside may be in addition to another application submitted by an eligible city or county pursuant to Section 7060(b)(1)-(5). Applications submitted under this section will be independently evaluated and ranked against other applications for this special allocation without regard to the rating of an application submitted pursuant to another section of this subchapter.</p> <p>(c) An application submitted pursuant to this section shall be in the form prescribed for applications in Section 7070 and shall comply in all other respects with this subchapter. CDBG funds utilized within the identifiable geographic areas must principally benefit residents in the targeted income groups without regard to race, religion, national origin, or sex. In the event all the set aside funds are not awarded in a funding cycle, the Department shall award the remaining funds to the highest ranked unfunded applications submitted under Section 7072.</p>		<p>§ 7062(a) Sets aside an amount equal to one and one quarter percent (1.25%) of the total State CDBG funds to be granted to eligible applicants (units of general local government) for identifiable geographic areas within eligible cities and counties comprised of high concentrations of Native Americans not recognized as Indian Tribes as defined in Section 102(a)(17) of the Act.</p> <p>§ 7062(b) clarifies that a Native American application may be submitted in addition to another application submitted by an eligible city or county. The reference to 7060(b)(1)-(5) should be clarified as § 7062(b) only contains three items (1-3).</p> <p>§ 7062(c) Indicates that if the set aside fund are not awarded in a funding cycle, they will be used for Community Development Allocation and Native American Applications.</p>

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<p><b>§ 7062.1. Special Allocation for Economic Development.</b></p> <p>(a) The Department shall set aside from the total amount available from HUD, for grants to cities and counties an amount equal to thirty percent (30%) for the activities specified in this section. Applications submitted under this section must comply with all the requirements of this subchapter except where noted in this section. Economic Development Allocation funds shall be awarded through the NOFA process for eligible activities listed in Section 7058 and 7062.1)(a)(1).</p> <p>(1) Activities eligible for funding under the Economic Development Allocation are those activities which are subject to the Standards for Evaluating Public Benefits set forth in subsection (f) of 24 CFR Section 570.482. Eligible activities shall also meet a national objective as specified in Section 104(b)(3) of the Act (42 U.S.C. Sec. 5304(b)(3)) and 24 CFR Section 570.483. The Department shall utilize Section 105(a) of the Act (42 U.S.C. Sec. 5305(a)), 24 CFR Section 570.482, and Subpart C of Part 570 of the federal CDBG regulations commencing with Section 570.200, for guidance in determining the eligibility of activities proposed under this section. Where CDBG funds are used for public improvements (e.g., water, sewer or road improvements) the national objective shall be met pursuant to 24 CFR Section 570.483.</p> <p>(2) In order to be eligible for funding from the Enterprise Fund as set forth in subsection (b) or the ED OTC as set forth in subsection (c), with the exception of assistance to microenterprises, a project or activity (hereinafter collectively referred to as an "activity") shall be capable of generating sufficient public benefit relative to the amount of CDBG assistance provided as required by the Act. The Department, with respect to activities funded from the ED OTC, and Grantees with respect to activities funded with Enterprise Funds, shall utilize the federal standards specified at 24 CFR Section 570.484(f) to determine whether sufficient public benefit will be generated by a proposed activity.</p> <p>(3) Prior to the funding of any activity from either the Enterprise Fund or the ED OTC, the activity shall be underwritten to ensure that:</p> <ul style="list-style-type: none"> <li>(i) the activity's costs are reasonable;</li> <li>(ii) that all sources of activity financing are committed;</li> <li>(iii) that to the extent practicable, CDBG funds are not substituted for non-Federal financial support;</li> <li>(iv) that the activity is financially feasible;</li> <li>(v) that to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and</li> </ul>	<p><b>§570.482 Eligible activities.</b></p> <p>[§570.482(f) Incorporated into State code by reference at § 7062.1(a) and not repeated here]</p> <p>[24 CFR Part 570 Subpart C §570.200 - §570.210 incorporated into State code pertaining to determining the eligibility of activities proposed for the Special Allocation for Economic Development; not repeated here]</p>	<p>The Department administers the Special Allocation for Economic Development pursuant to Entitlement Program regulations found at 24 CFR Part 570 Subpart C.</p>

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<p>(vi) that to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the activity. Activities shall be underwritten by the Department, with respect to activities funded from the ED OTC, and by Grantees with respect to activities funded with Enterprise Funds, utilizing the federal Guidelines and Objectives for Evaluating Project Costs and Financial Requirements set forth as Appendix A to 24 CFR Part 570.</p> <p>(4) A activity funded from the Enterprise Fund or the ED OTC shall be reevaluated by the Department or grantee pursuant to subsections (a)(2) and (a)(3) of this Section if the underlying assumptions relied upon by the Department or the Enterprise Fund grant recipient in making its original funding decision materially change. A "material change", for these purposes, means: (1) a change in the size, scope, location or public benefit of the activity; or (2) a change in the terms or the amount of the private funds (including lender's funds and equity capital) to be invested in the activity; or (3) a change in the terms or the amount of the CDBG assistance to be made available to the activity. If a material change has occurred and a reevaluation of the activity indicates that the financial elements and public benefit to be derived have also changed, then appropriate adjustments in the amount, the type of CDBG assistance and/or the terms and conditions under which that assistance has been offered shall be made to reflect the impact of the material change.</p> <p>(5) In the event that an activity funded under the Enterprise Fund or ED OTC fails to meet a federal national objective or state or federal eligibility requirement, at the Department's discretion, a Grantee may be required to repay all or a portion of the grant amount from a non-federal source of revenue, and/or may be required to return all or part of any program income received from the CDBG-assisted activity to the Department. In determining the appropriate remedy, the Department shall, at a minimum, consider the following factors:</p> <p>(1) actions taken by the Grantee to avoid the adverse circumstances in the first place;</p> <p>(2) actions taken by the Grantee to mitigate the circumstances once the problem was discovered; and</p> <p>(3) timeliness of steps taken to protect and/or recover CDBG funds. Failure by a Grantee to comply with any requirements or written instructions issued by the Department pursuant to this subsection shall be considered a failure by the Grantee to resolve any "audit findings or performance problems" and point deductions may be applied to subsequent applications at the time those applications are scored.</p> <p>(6) Funding maximums from the Economic Development Enterprise Fund Allocation and the Planning Component shall be as set forth in Health and Safety Code Section 50832 subdivision (a) and Section 50833</p>		

subdivisions (a) and (b). The Department may waive the eight hundred thousand dollar (\$800,000) and five hundred thousand dollar (\$500,000) limitations for the Economic Development Allocation after September 1 of each year. Pursuant to Health and Safety Code 50834(c) all funds awarded to the Department from HUD, must be awarded within the Funding Cycle. If not awarded by the end of the Funding Cycle, the funds shall no longer be available for Economic Development activities. The Department may allocate funds between the Enterprise funds and OTC as set forth in the NOFA. The NOFA will announce open and close dates for the ED OTC. These dates will be in compliance with encumbrance regulations at 24 CFR 570.494 and Health & Safety Code Section 50834(c).

(7) All Economic Development Allocation funds returned, disencumbered or paid to the State in the form of program income ("returned funds") shall be made available to fund current-year applications to the Enterprise Fund or the ED OTC.

(8) Grants to eligible local governments may be passed through to qualified organizations chartered to perform economic development activities.

(9) Notwithstanding any other provision of this Section, the Director may alter the order applications are reviewed for applicants requesting funds for an urgent need such as an imminent plant closure, an emergency recognized by the State. The Director's decision to alter the order an application is reviewed shall be in writing and made part of the application file.

(b) Enterprise Fund. Economic Development Allocation funds set aside for use pursuant to this subsection shall be known as the Enterprise Fund (Enterprise Fund). The purpose of the Enterprise Fund is to provide a source of funds to establish or enhance local revolving loan fund programs.

(1) At least seventy (70) days prior to the due date for applications, the Department shall notify all eligible cities and counties of the anticipated level of funding for the Enterprise Fund through a Notice of Funding Availability (NOFA) and the deadline for receipt of applications. The Department shall also make available application forms and a training manual which will provide eligible applicants with a consistent format for presenting proposals, information on proposal review factors, and guidance on program policies that may affect an applicant's program design.

(2) Two activities are eligible under the Enterprise Fund. The first is Business Assistance activities under HUD's Special Economic Development Activities under section 105(a)(14), 105(a)(15), and 105(a)(17) of the Housing and Community Development Act of 1974. The

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<p>second is Micro Enterprise Assistance activities under section (105(a)(22). All Business assistance activities must meet the HUD public benefit standard of job creation or retention under the Statutes covering Special Economic Development Activities referenced above. Business Assistance program activities must also meet the HUD national objective of benefit to TIG persons by mandating 51% of jobs created under public benefit standard be made available to low income persons. No public benefit requirement will apply to Micro Enterprise Assistance program activities. All Micro Enterprise Assistance programs must meet the HUD definition of micro enterprise size (five or fewer employees) and also meet the national objective of benefit to low income beneficiaries by restricting the program to low income micro business owners.</p> <p>(3) The maximum Enterprise Fund grant award to a single applicant in a program year shall not exceed \$500,000, except as specified at 7062.1(a)(6). The Director may establish a lower maximum award through each year's NOFA. A decision to reduce the maximum award shall be based upon the relative demand for Enterprise Fund grants and OTC Component funds during the previous year and the total Economic Development Allocation funds available.</p> <p>(4) Activities which are eligible for funding from a local revolving loan fund include, but are not limited to: construction loans; new equipment purchase loans; working capital loans; land acquisition loans; loan guarantees; loans for privately owned on-site improvements; grants for public off-site sewer, water and road improvements; and assistance to microenterprises.</p> <p>(5) Except for assistance to micro enterprises, the cost-per-job created or retained for a grantee's activities proposed for funding from the Enterprise Fund shall not exceed \$35,000 in CDBG funds, per job created or retained for each activity. Any activity funded under this component shall meet the standards for public benefit set forth in subsection (f) of 24 CFR Section 570.482.</p> <p>(6) Allocation Review Procedures and Evaluation Criteria.</p> <p>(A) Each eligible applicant shall submit an original and two (2) copies of its application to the Department by the application deadline specified in the NOFA. Applications submitted by mail shall be received no later than the deadline. Applications delivered to the Department must be date stamped by the Department prior to 5 P.M. on the due date.</p> <p>(B) Within thirty (30) days of receipt of an incomplete application, the Department shall return the application to the applicant with a written explanation of the reasons why the application is incomplete.</p> <p>(C) The Department shall complete the ranking of applications pursuant to the evaluation criteria described in Section 7078(d)(6), within eighty (80) days from the application deadline. Applicants shall be notified in</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(f) Revolving funds. (1) The State may permit units of general local government to establish revolving funds to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the Treasury for revolving fund activities. Such program income is not required to be disbursed for non-revolving fund activities.</p> <p>(2) The State may establish one or more State revolving funds to distribute grants to units of general local government throughout a State or a region of the State to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to fund grants to units of general local government to carry out specific activities which, in turn, generate payments to the fund for additional grants to units of general local government to carry out such activities. Program income in the revolving fund must be disbursed from the fund before additional grant funds are drawn from the Treasury for payments</p>	<p>§ 7062.1 of State code contemplates establishing or enhancing local revolving loan fund programs. The requirements of §570.489 should be incorporated into State code or CDBG Program Guidelines.</p>

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<p>writing of point scores, fund reservations and any adjustments necessary to comply with national objective or eligibility requirements. The Department may condition its award of funds in order to achieve the purposes of this subchapter and to ensure compliance with applicable State and federal requirements.</p> <p>(D) Successful applicants shall receive a reservation of Enterprise Funds equal to the approved grant amount. These reserved funds shall be held by the Department pending drawdown requests for specific eligible activities.</p> <p>(7) A Grantee's unused Enterprise Fund grant funds shall be disencumbered thirty-six months after grant agreement execution. The Department may waive this provision in writing if it determines that compelling circumstances warrant the waiver. For purposes of this subsection only, for activities of \$50,000 or less, funds shall be considered "unused" if not approved by the local loan committee for disbursement as a loan to a specified borrower; for activities over \$50,000, funds shall be considered unused if the Department has not yet received complete documentation, as determined by the Department, of the proposed borrower's eligibility.</p> <p>(c) Over-the-Counter Component. Economic Development Allocation funds not allocated to either the Enterprise Fund or the Planning Component shall be made available for award pursuant to this subsection (c), which shall be known as the "Economic Development Over-the-Counter-Component" or "ED OTC". Through the ED OTC, the Department shall provide grants to eligible cities and counties to: make loans to employers for an identified CDBG-eligible activity, provided the loan will result in the creation or retention of permanent jobs; or to construct infrastructure improvements which are necessary to accommodate the creation, expansion or retention of a business that will create or retain jobs.</p> <p>(1) Through a notice of funding availability ("NOFA"), each program year the Department shall notify all eligible cities and counties of the anticipated level of funding for the OTC Component. OTC Component applications shall be accepted on a continuous basis.</p> <p>(2) Awards from the OTC Component to a single city or county in a single program year shall not exceed \$3,000,000, regardless of the number of applications.</p> <p>(3) Notwithstanding Section 7064(c), two or more applicants may submit a joint application for an OTC Component award. The maximum award for a joint application may not exceed the limit set in 7062.1(c)(2).</p> <p>(4) All applications will be accepted on a first-come, first-served basis. The Department will use the tiebreaker process as determined in the HUD Annual Plan pursuant to the procedures set forth under Section</p>	<p>to units of general local government which could be funded from the revolving fund.</p> <p>(3) A revolving fund established by either the State or unit of general local government shall not be directly funded or capitalized with grant funds.</p>	

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<p>7078 if more applications than can be funded are received by the Department on the same day.</p> <p>(5) All application evaluation criteria are subject to Sections 7070, 7076 and 7078.</p> <p>(6) In order to be considered complete, an application shall contain the information requested in the NOFA, and such other information as necessary for the Department to evaluate the application using the points and rating factors set forth in subsection (c)(4) of this section and the following information as appropriate:</p> <p>(A) If an applicant contains a description or analysis which includes quantified information, the source of the information, and the method of computation shall be described. If the Department determines that the method of computation leads to conclusions which are inaccurate or misleading, it may, after consultation with the applicant, adjust the method of computation or the conclusions during the evaluation process.</p> <p>(B) Evidence that activities proposed for funding meet one of the national objectives specified under Section 7056(b)(3) and detailed under 24 CFR Section 570.483.</p> <p>(C) If an applicant asserts that an activity will meet the national objective of principally benefitting the TIG, the application shall include a description of the means of verification which the applicant will use to determine the number and income of those households actually benefitting from the program.</p> <p>(D) A schedule demonstrating that any new jobs that will be generated by the program will be available within 24 months of execution of the grant agreement by the Department.</p> <p>(E) For off-site public improvement activities, the application shall document the following: how the activity meets the national objective and public benefit requirements specified in 24 CFR Section 570.482(f); that the applicant has negotiated with the businesses and other beneficiaries that will be served by these improvements and obtained an appropriate funding contribution towards the cost of the improvements; and how the activity meets the requirements of paragraphs (2) and (3) of subsection (a) of this Section.</p> <p>(7) The Department shall review applications based on order of receipt. Within thirty (30) days of receipt of an incomplete application, the Department shall notify the applicant in writing of the reasons why the application is incomplete.</p> <p>(8) Within 60 days of the date an application is determined to be complete, the Department shall review the application for compliance with state and federal program requirements and provide the applicant, in</p>		

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<p>writing, the Department's decision to approve or deny funding for the application. Applications eligible for funding shall be funded in order of receipt of a complete application.</p> <p>(9) In making funding decisions, the Department shall first evaluate the application using the following factors and points as threshold criteria. To pass threshold, an application must score at least 50 points.</p> <p>Factor Points</p> <p>(A) Percent of county-wide unemployment relative to the Statewide average (A maximum of twenty-five points).</p> <p>(B) Ratio of CDBG funds per job - maximum ratio of \$35,000 per job created or retained (A maximum of fifteen points).</p> <p>(C) Ratio of private funds to CDBG funds (A maximum of fifteen points).</p> <p>(D) Quality of applicant's past performance for CDBG economic development contracts (A maximum of fifteen points).</p> <p>(E) Percent of funds allocated to applicant's general administrative costs (for this purpose, general administrative costs do not include funds budgeted for planning studies). (A maximum of ten points).</p> <p>(10) Applications which have received 50 or more points shall be reviewed for funding using the following factors:</p> <p>(A) the extent of the applicant's need for CDBG funds,</p> <p>(B) the market feasibility of the proposed activities,</p> <p>(C) the feasibility of the proposed activities under local and other regulatory requirements,</p> <p>(D) the financial feasibility of the proposed activities. (In analyzing this factor, the Department may determine that an activity is feasible even though other funding sources have not committed their funding to an activity. If the application documents the terms and conditions that will be offered by the other funding sources, then the Department may conditionally commit to funding. This commitment of funding by the Department shall be conditioned upon the final commitment from the other funding sources.),</p> <p>(E) the capacity of the applicant and its borrower, subcontractors or subgrantees to manage the proposed activities,</p> <p>(F) the appropriateness of the terms proposed by the applicant, given the documented needs of the business and given the amount of public benefit in the form of job creation or job retention that will result from the CDBG-assisted activity,</p>		

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<p>(G) the status of the ownership or control of any real estate needed for the proposed activities,</p> <p>(H) the extent to which the proposed activities involve intrastate relocation of jobs or business, and</p> <p>(I) the extent of recruitment, training and promotional opportunities for targeted income groups.</p> <p>(d) Planning and Technical Assistance Component. Through the Planning and Technical Assistance Component ( "Planning Component"), eligible cities and counties may apply for, and the Department may award, grants for economic development planning and technical assistance activities. Pursuant to Health and Safety Code 50833 no single city or county shall receive more than two grants. Two or more applicants which share a planning program may submit a joint application. The maximum award for a joint application shall not be more than the maximum grant amount as set for in the NOFA.</p> <p>(1) Application Procedures and Evaluation Criteria. Each program year, the Department shall notify all eligible cities and counties of the anticipated level of funding for the Planning Component and the earliest date for submitting applications through a notice of funding availability ( "NOFA"). The Department shall review Planning Component applications to determine if they meet minimum program eligibility and cash match requirements. Department shall notify applicants, in writing, within 60 days of receipt of a complete application of the Department's funding determination. To be eligible for funding consideration, an application must meet the following requirements:</p> <p>(A) The funding request shall contain all the information required in the NOFA and shall contain a certified resolution adopted by the governing body of the eligible jurisdiction documenting the availability of the cash match;</p> <p>(B) The funding request shall be for an eligible activity and must meet a national objective as specified in 24 CFR Section 570.483; and</p> <p>(C) If funds will be used to provide direct assistance to an identified business, the activity shall be considered to be technical assistance to a private, for-profit business and the application must include a letter from the benefitted business which: (i) explains why the benefitting business is unable to provide funding for the activity; and (ii) conditionally commits the business to proceeding with the activities which are the subject of the CDBG grant.</p>		
<p><b>§ 7062.3. Special 108 Loan Guaranty Pledges.</b></p>	<p><b>Subpart M—Loan Guarantees</b> <b>§570.702 Eligible applicants.</b></p>	<p>The State may facilitate Section 108 Loan Guarantees within the limitations established at § 7062.3, including minimum loans of \$500,000,</p>

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<p>(a) Commitment of future federal allocations of CDBG Funds to the State (“State pledges”) by the Department as collateral for federal guarantees of notes or other obligations issued by eligible cities and counties (“loan guarantees”) pursuant to Section 108 of the Act (42 U.S.C. Sec. 5308) and 24 CFR Subchapter C, Part 570, Subpart M commencing with Section 570.700 (collectively, “Section 108”) shall be subject to the following conditions:</p> <p>(1) State pledges shall be given as collateral for loan guarantees only for loans of between \$500,000 and \$2,000,000.</p> <p>(2) The total of all outstanding State pledges at any given point in time shall not exceed \$16,000,000.</p> <p>(3) To receive a State Pledge, in addition to the eligibility requirements established by Section 108 of the Act (42 U.S.C. Sec. 5308), an activity must: meet the eligibility requirements specified at Section 7062.1 subsection (a)(2) and (a)(3); and address one of the three CDBG national objectives specified in Section 7052 and as specified in 24 CFR Section 570.483.</p> <p>(4) Applicants shall demonstrate a reliable repayment source and adequate security in the event the primary source of repayment defaults. The Department may require that the applicant city or county pledge other sources of repayment for the loan such as any local CDBG program income.</p> <p>(5) State pledges shall not be committed as security for a guaranty which guaranty is the primary source of repayment for federally-issued securities.</p> <p>(6) The proposed activity upon which the application for State pledges has been based shall be reviewed by the Department according to the HUD guidelines for financial underwriting referenced at Section 7062.1(a)(3).</p> <p>(7) Any Loan Guaranty Pledges made pursuant to Section 7062.3 are excluded from any funding limitations set forth in this section or set forth at Health and Safety Code Section 50832(a).</p> <p>(b) Application Procedures and Evaluation Criteria.</p> <p>(1) To obtain a State pledge, eligible jurisdiction shall make a formal application in writing to the Department.</p> <p>(2) Applications which have been determined by the Department to be complete shall be reviewed and a decision whether or not to issue a State pledge shall be made in writing within 60 days of the date of receipt of a complete application.</p>	<p>The following public entities may apply for loan guarantee assistance under this subpart.</p> <p>(a) Entitlement public entities.</p> <p>(b) Nonentitlement public entities that are assisted in the submission of applications by States that administer the CDBG program (under subpart I of this part). Such assistance shall consist, at a minimum, of the certifications required under §570.704(b)(9) (and actions pursuant thereto).</p> <p>(c) Nonentitlement public entities eligible to apply for grant assistance under subpart F of this part.</p>	<p>maximum loans of \$2,000,000 and total outstanding State pledges at any given point in time of \$16,000,000. Pursuant to § 7062.3(a)(3), the eligible activities are limited to economic development.</p>

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<p>(3) In order to be considered complete, an application shall, at a minimum, include the following:</p> <p>(A) the amount of the State pledge requested;</p> <p>(B) sufficient information for the Department to determine that all of the conditions of subsection (a) of this Section have been met; and</p> <p>(C) sufficient information to conduct the financial underwriting review required by subsection (a)(6) of this Section.</p> <p>(4) An incomplete application shall be returned to the applicant with a written explanation as to the applicant's deficiencies.</p> <p>(c) If the Department determines that the requirements of subsection (a) have been met, and that the activity underlying the application conforms to the underwriting standards of subsection (a)(6), the Department shall prepare and issue to the applicant a certification containing, at a minimum, the following statements:</p> <p>(1) the State of California, acting by and through the Department, agrees to make a pledge of future CDBG grants for which the State may become eligible in the amount of the approved application as security for a loan guaranty from HUD in an equivalent amount;</p> <p>(2) the Department possesses the legal authority to make such a pledge;</p> <p>(3) at least seventy percent (70%) of the aggregate use of CDBG funds received by the State, guaranteed loan funds, and program income during the one, two, or three years specified by the Department for its CDBG program will be for activities that benefit low and moderate income persons; and</p> <p>(4) the Department agrees to assume the responsibilities set forth in 24 CFR Section 570.710 requiring the Department to ensure that the applicant complies with all applicable federal requirements governing the use of guaranteed loan funds.</p>		
<p><b>§ 7062.5. Special Allocation for Federal Disaster or Other Emergency Supplemental Assistance.</b></p> <p>(a) The Department can administer funding provided under the Stafford Relief and Emergency Assistance Act or other emergency supplemental assistance appropriated by Congress under the Community Development Block Grant (CDBG) program. Funding from a special allocation is separate from the annual CDBG NOFA process but still subject to applicable federal statutes and regulations as well as state statutes and</p>	<p><b>§570.480 General.</b></p> <p>(b) HUD's authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially-declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.</p>	<p>§ 7062.5 stipulates that the Department will administer disaster recovery funds from HUD and gives the Department the ability to do so using the CDBG regulations as a framework and allowing for Federal waivers and corresponding State actions to invoke any and all means of expediency and funding program design, where not in conflict with any federal statute or regulations.</p>

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<p>regulations. Any federal regulations imposed on disaster assistance or other emergency supplemental assistance will supersede any state CDBG statute or regulation, if a conflict between the two occurs. The Department may waive current state CDBG regulations that conflict with or impair the use of disaster or emergency supplemental assistance. The Department may release a special disaster or emergency supplemental NOFA, separate from the annual NOFA process.</p> <p>(b) Given a presidential declaration of disaster and the enactment of the Stafford Relief and Emergency Assistance Act or the appropriation of emergency supplemental assistance, in order to address the most serious and emergent health, safety, and general welfare needs, the Department reserves the right to invoke any and all means of expediency and funding program design, where not in conflict with any federal statute or regulations, as set forth in Section 7065.5.</p>		
<p><b>§ 7065. Special Grant Amendments for Disasters.</b></p> <p>(a) A grantee may make a written request to the Department to amend or replace a project or activity set forth in an active grant agreement with a project or activity which would alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community.</p> <p>(b) Notwithstanding any other provision of this Subchapter, the Department shall approve such a request and amend the grant agreement accordingly if the Department makes the following findings in writing:</p> <p>(1) The grantee is located in an area for which a presidential declaration of disaster, or the Governor has proclaimed either a “state of emergency” or a “local emergency” as those terms are defined in Government Code Section 8558;</p> <p>(2) The amended or replacement project or activity is designed to alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health and welfare of the community;</p> <p>(3) The amendments have necessary eligibility documentation for each activity and its associated national objective and there is no duplication of eligible costs; and</p> <p>(4) The amended or replacement project or activity is otherwise eligible for funding under this Subchapter.</p>	<p>[There is no related Federal regulation in Part 570]</p>	<p>§ 7065 allows grantees to request the ability to use funds that are part of an existing active grant agreement to alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community, provide the replacement activity is eligible and meets a national objective.</p> <p>Since these activities and associated funds are not part of a disaster recovery allocation, measures should be adopted as part of State code to ensure that the 70 percent benefit test is met over a one, two or three year certification period.</p>

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<p><b>§ 7065.5. Special Disaster or Emergency Supplemental Assistance NOFAs.</b></p> <p>(a) Notwithstanding any provision in this Subchapter to the contrary, in the event of a special appropriation of emergency supplemental assistance or a presidential declaration of disaster, or the Governor proclaims either a “state of emergency” or a “local emergency” as those terms are defined in Government Code Section 8558, the Department may issue a special NOFA. The special NOFA will make CDBG program funds available to otherwise eligible state applicants located in the areas covered by the federal or state disaster proclamation, pursuant to the following special conditions:</p> <p>(1) The project or activity shall be designed to alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community;</p> <p>(2) The Department will review eligibility documentation for each proposed activity and its associated national objective and ensure there is no duplication of eligible costs; and</p> <p>(3) The proposed project or activity shall be otherwise eligible for funding under this Subchapter or be eligible pursuant to other HUD eligibility criteria.</p> <p>(b) In order to address the most serious, emergent health, safety, and general welfare needs, the Department Director or Acting Director may direct funding awards to designated project or activity types, or areas. These measures may include, but are not limited to:</p> <p>(1) Limiting a NOFA to a designated type of project or activity, or geographic area related to the federal or state disaster proclamation;</p> <p>(2) Awarding bonus points within a NOFA to a designated type of project or activity, or geographic area;</p> <p>(3) Reserving a portion of funds in a NOFA for a designated type of project or activity, or geographic area;</p> <p>(4) Establishing maximum award amounts per applicant, type of project, or type of activity;</p> <p>(5) Making funds available through an over-the-counter process, meaning the Department continuously accepts and evaluates applications until funds are exhausted.</p> <p>(c) To the extent necessary to address serious, emergent health, safety and general welfare needs, and to expedite the process of making awards, the Department Director or Acting Director may alter or waive</p>	<p><b>§570.480 General.</b></p> <p>(b) HUD’s authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially-declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.</p>	<p>§ 7065.5 provides the Department the authority to issue NOFAs and administer disaster recovery assistance from HUD. This section includes granting authority to the Director or Acting Director to alter or waive state requirements and to implement federal waivers from HUD.</p>

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<p>state required criteria set forth in Sections 7060, 7062, 7062.1, and 7078. Health and Safety Code Section 50833.1(b) allows for waiving of Sections 50831 to 50833 of the Health and Safety Code. Federal requirements cannot be waived without express written authority from HUD.</p>		
<p><b>§ 7068. Administrative Cost Limitation.</b></p> <p>Grantees may expend up to seven and a half percent (7 1/2%) of the grant amount for administrative costs, provided that such amounts are justified for the type and complexity of the program, and that there are records to document these charges.</p> <p>Activity delivery costs directly related to a specific activity are not part of the general administrative costs. For example, the cost of a housing rehabilitation specialist is a rehabilitation cost and the legal costs relating to property acquisition are acquisition costs.</p> <p>Administrative costs may include, but are not limited to, the following categories:</p> <p>(a) General administrative activities. Such costs for administration include:</p> <p>(1) Salaries, wages, and related costs of the Grantee's staff engaged in general management, general legal services, accounting, and auditing.</p> <p>(2) Travel costs incurred in carrying out the general management of the program.</p> <p>(3) Administrative services performed under third-party contracts including contracts for such services as general legal services, accounting services, and audit services; and</p> <p>(4) Other costs for goods and services related to the general management of the program including rental and maintenance of office space, insurance, utilities, office supplies, and rental or purchase of office equipment.</p> <p>(b) Information and resources provided to persons in the targeted income group, and to citizen organizations participating in the planning, implementation, or assessment of the Grantee's program.</p> <p>(c) Costs incurred for environmental studies, including historic preservation clearances, and specific environmental assessments and clearances related to the CDBG Program.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(a) Administrative and planning costs.—(1) State administrative and technical assistance costs. (i) The State is responsible for the administration of all CDBG funds. The State may use CDBG funds not to exceed \$100,000, plus 50 percent of administrative expenses incurred in excess of \$100,000. Amounts of CDBG funds used to pay administrative expenses in excess of \$100,000 shall not, subject to paragraph (a)(1)(iii) of this section, exceed the sum of 3 percent of the State's annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by units of general local government or paid to the State); and 3 percent of funds reallocated by HUD to the State.</p> <p>(ii) To pay the costs of providing technical assistance to local governments and nonprofit program recipients, a State may, subject to paragraph (a)(1)(iii) of this section, use CDBG funds received on or after January 23, 2004, in an amount not to exceed the sum of 3 percent of its annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by units of general local government or paid to the State); and 3 percent of funds reallocated by HUD to the State during each program year.</p> <p>(iii) The amount of CDBG funds used to pay the sum of administrative costs in excess of \$100,000 paid pursuant to paragraph (a)(1)(i) of this section and technical assistance costs paid pursuant to paragraph (a)(1)(ii) of this section must not exceed the sum of 3 percent of the State's annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by the unit of general local</p>	<p>§ 7068 of State code establishes a 7.5 percent administration cap for Grantees. The 7.5 percent cap for Grantees is not specified in Part 570.</p>

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
<p>(d) Fair housing activities to facilitate compliance with the requirements of Section 7084.</p> <p>(e) Community development planning activities.</p> <p>If a cost cannot be associated with one of the above listed groups and cannot be associated with direct program costs, the Department shall upon the grantee's request make a determination of whether it is an administrative cost, a program cost, or an ineligible cost.</p>	<p>government or paid to the State); and 3 percent of funds reallocated by HUD to the State.</p> <p>(iv) In calculating the amount of CDBG funds that may be used to pay State administrative expenses prior to January 23, 2004, the State may include in the calculation the following elements only to the extent that they are within the following time limitations:</p> <p>(A) \$100,000 per annual grant beginning with FY 1984 allocations;</p> <p>(B) Two percent of the sum of a State's annual grant and funds reallocated by HUD to the State within a program year, without limitation based on when such amounts were received;</p> <p>(C) Two percent of program income returned by units of general local government to States after August 21, 1985; and</p> <p>(D) Two percent of program income received and retained by units of general local government after February 11, 1991.</p> <p>(v) In regard to its administrative costs, for grants before origin year 2015, the State has the option of selecting its approach for demonstrating compliance with the requirements of paragraph (a)(1) of this section. For grants beginning with origin year 2015 grants and subsequent grants, the State must use the approach in paragraph (a)(1)(v)(A) of this section. Any State whose matching cost contributions toward State administrative expense matching requirements are in arrears must bring matching cost contributions up to the level of CDBG funds expended for such costs. A State grant may not be closed out if the State's matching cost contribution is not at least equal to the amount of CDBG funds in excess of \$100,000 expended for administration. The two approaches for demonstrating compliance with this paragraph (a)(1) are:</p> <p>(A) Year-to-year tracking and limitation on drawdown of funds. The State will calculate the maximum allowable amount of CDBG funds that may be used for State administrative expenses from the sum of each origin year grant, program income received during that associated program year and reallocations by HUD to the State during that associated</p>	

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
	<p>program year. The State will draw down amounts of those funds only upon its own expenditure of an equal or greater amount of matching funds from its own resources after the expenditure of the initial \$100,000 for State administrative expenses. The State will be considered to be in compliance with the applicable requirements if the actual amount of CDBG funds spent on State administrative expenses does not exceed the maximum allowable amount, and if the amount of matching funds that the State has expended for that grant year is equal to or greater than the amount of CDBG funds in excess of \$100,000 spent during that same grant year. Under this approach, the State must demonstrate that it has paid from its own funds at least 50 percent of its administrative expenses in excess of \$100,000 by the closeout of each grant.</p> <p>(B) Cumulative accounting of administrative costs incurred by the State since its assumption of the CDBG program for grants before origin year 2015. Under this approach, the State will identify, for each grant it has received, the CDBG funds eligible to be used for State administrative expenses, as well as the minimum amount of matching funds that the State is required to contribute. The amounts will then be aggregated for all grants received. The State must keep records demonstrating the actual amount of CDBG funds from each grant received that was used for State administrative expenses, as well as matching amounts that were contributed by the State. The State will be considered to be in compliance with the applicable requirements if the aggregate of the actual amounts of CDBG funds spent on State administrative expenses does not exceed the aggregate maximum allowable amount and if the aggregate amount of matching funds that the State has expended is equal to or greater than the aggregate amount of CDBG funds in excess of \$100,000 (for each annual grant within the subject period) spent on administrative expenses during its 3- to 5-year Consolidated Planning period. If the State grant for any grant year within the 3- to 5-year period has been closed out, the aggregate amount of CDBG funds spent on State administrative expenses, the aggregate maximum allowable amount, the aggregate matching funds expended, and the aggregate amount of CDBG funds in excess of \$100,000 (for each annual grant within the subject period) will be reduced by amounts attributable to the grant year for which the State grant has been closed out.</p> <p>(2) The State may not charge fees of any entity for processing or considering any application for CDBG funds, or for carrying out its responsibilities under this subpart.</p>	

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	<p>(3)(i) Administrative costs are those described at §570.489(a)(1) for States and, for units of general local government, are those described at sections 105(a)(12) and (a)(13) of the Act.</p> <p>(ii) The combined expenditures by the State and its funded units of general local government for planning, management, and administrative costs shall not exceed 20 percent of the aggregate amount of the origin year grant, any origin year grant funds reallocated by HUD to the State, and the amount of any program income received during the program year.</p> <p>(iii) For origin year 2015 grants and subsequent grants, no more than 20 percent of any annual grant (excluding program income) shall be expended by the State and its funded units of general local government for planning, management, and administrative costs. In addition, the combined expenditures by the States and its unit of general local government for planning, management, and administrative costs shall not exceed 20 percent of any origin year grant funds reallocated by HUD to the State.</p> <p>(iv) Funds from a grant of any origin year may be used to pay planning and program administrative costs associated with any grant of any origin year.</p> <p>(b) Reimbursement of pre-agreement costs. The State may permit, in accordance with such procedures as the State may establish, a unit of general local government to incur costs for CDBG activities before the establishment of a formal grant relationship between the State and the unit of general local government and to charge these pre-agreement costs to the grant, provided that the activities are eligible and undertaken in accordance with the requirements of this part and 24 CFR part 58. A State may incur costs prior to entering into a grant agreement with HUD and charge those pre-agreement costs to the grant, provided that the activities are eligible and are undertaken in accordance with the requirements of this part, part 58 of this title, and the citizen participation requirements of part 91 of this title.</p>	
<p><b>§ 7070. Contents of the Application.</b></p> <p>Applications shall be submitted on forms prescribed by the Department and shall consist of the following items and any other information deemed necessary by the Department to judge the application. The specific forms and required information will be made available annually in the NOFA and accompanying application packet. This information provides the basis for</p>	<p>[There is no related Federal regulation in Part 570]</p>	

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
<p>the evaluation in Section 7078 and includes the assurances and agreements necessary for compliance with this subchapter. Where a description or analysis includes quantified information, the source of the information and the method of computation must be described. If the Department determines that the methods of computation are inaccurate or misleading, it may, after consultation with the applicant, adjust this information during the evaluation process.</p>		
<p><b>§ 7072. Submission of Community Development Allocation and Native American Applications.</b></p> <p>At least seventy (70) days prior to the due date for applications, the Department will notify all eligible cities and counties of the anticipated level of funding for the State program, and will provide them with a schedule for filing applications. Applications must be received by the closing date. Each eligible applicant shall submit two (2) copies of its application to the Department.</p>	<p>[There is no related Federal regulation in Part 570]</p>	
<p><b>§ 7076. Award of Funds.</b></p> <p>(a) At least 70% of all CDBG funds shall be awarded to activities to benefit Targeted Income Group households pursuant to 24 CFR 570.484</p> <p>(b) At least 51% of all CDBG funds shall be awarded to activities providing housing for Targeted Income Group households pursuant to Health and Safety Code 50828, providing or improving housing opportunities for persons and families of low or moderate income or for purposes directly related to the provision or improvement of housing opportunities for persons and families of low or moderate income, including, but not limited to, the construction of infrastructure.</p> <p>(c) Pursuant to Health and Safety Code Section 50827, thirty percent of the total amount of CDBG funds available shall be allocated between three Economic Development activities per Section 7058 of this part:</p> <ol style="list-style-type: none"> <li>(1) Economic Development Enterprise Fund,</li> <li>(2) Economic Development Over-the-Counter</li> <li>(3) Planning and Technical Assistance</li> </ol>	<p><b>§570.484 Overall benefit to low and moderate income persons.</b></p> <p>(a) General. The State must certify that, in the aggregate, not less than 70 percent of the CDBG funds received by the state during a period specified by the state, not to exceed three years, will be used for activities that benefit persons of low and moderate income. The period selected and certified to by the state shall be designated by fiscal year of annual grants, and shall be for one, two or three consecutive annual grants. The period shall be in effect until all included funds are expended. No CDBG funds may be included in more than one period selected, and all CDBG funds received must be included in a selected period.</p> <p>(b) Computation of 70 percent benefit. Determination that a state has carried out its certification under paragraph (a) of this section requires evidence that not less than 70 percent of the aggregate of the designated annual grant(s), any funds reallocated by HUD to the state, any distributed program income and any guaranteed loan funds under the provisions of subpart M of this part covered in the method of distribution in the final statement or statements for the designated annual grant year or years have been expended for activities meeting criteria as provided in §570.483(b) for activities benefiting low and</p>	<p>§ 7076(a) is consistent with §570.484.</p> <p>§ 7076(b) is not required under Part 570.</p> <p>§ 7076(c) is not required under Part 570.</p>

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<p>(d) Pursuant to Section 916 of the National Affordable Housing Act of 1990, up to 10% of the total amount of CDBG funds available shall be made available for Colonia activities.</p> <p>(e) Pursuant to Health and Safety Code Section 50831, one-and-a quarter (1.25%) of the total amount of CDBG funds available shall be made available for Native American activities.</p> <p>(f) Pursuant to federal CDBG regulations, the remainder of the total amount of CDBG funds available after subtracting the activities in Section 7076 (c) (d) and, (e) shall be allocated to General activities, as listed below, with the amount available based on the actual application demand expressed as a dollar amount requested in response to the initial NOFA of a funding cycle,</p> <ol style="list-style-type: none"> <li>1. Housing activities,</li> <li>2. Public Facilities</li> <li>3. Public Improvements</li> <li>4. Public Services, not to exceed 15% of total amount of CDBG funds available, pursuant to 42 USC 5305 (a)(8).</li> </ol> <p>(g) The Department may condition its award of funds in order to achieve the purposes of this subchapter and to ensure compliance with applicable State and federal law.</p>	<p>moderate income persons. In calculating the percentage of funds expended for such activities:</p> <p>(1) All CDBG funds included in the period selected and certified to by the state shall be accounted for, except for funds used by the State, or by the units of general local government, for program administration, or for planning activities other than those which must meet a national objective under §570.483 (b)(5) or (c)(3).</p> <p>(2) Any funds expended by a state for the purpose of repayment of loans guaranteed under the provisions of subpart M of this part shall be excepted from inclusion in this calculation.</p> <p>(3) Except as provided in paragraph (b)(4) of this section, CDBG funds expended for an eligible activity meeting the criteria for activities benefiting low and moderate income persons shall count in their entirety towards meeting the 70 percent benefit to persons of low and moderate income requirement.</p> <p>(4) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under §570.483(b)(3) shall be counted for this purpose, but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons, except that the amount counted shall not exceed the amount of CDBG funds provided.</p>	<p>§ 7076(e) is not required under Part 570.</p>
<p><b>§ 7078. Evaluation Criteria.</b></p> <p>(a) Except for ED OTC activities, individual activity types will be evaluated against other activities of the same type. Where demand for a particular activity exceeds the amount of funds available, the applications for that activity shall be rated and ranked according to the rating criteria set forth in this Section. Activities will be funded in rank order, with the highest rated activities within each activity type funded first until all funds allocated for that activity, pursuant to Section 7076, have been awarded.</p> <p>(b) Applications may be submitted for Planning and Technical Assistance as the sole activity or in combination with other eligible activities. Applications submitted for Planning and Technical Assistance in combination with other eligible activities shall be eligible for funding only if at least one eligible activity is funded. The amount of funds available for</p>	<p>[There is no related Federal regulation in Part 570 specifying the evaluation criteria for applications.]</p>	<p>Provided State code and / or CDBG Guidelines are consistent with the Method of Distribution published in Action Plan(s), the State is in compliance.</p> <p>The Department may want to consider adding applicants' prior history meeting expenditure benchmarks (as applicable and determined by the Department) as part of the evaluation of capacity for each application type.</p>

Planning and Technical Assistance, as announced in the NOFA, shall be allocated between sole PTA applications and PTA applications submitted in combination with other eligible activities based on the relative amount requested. Applications will be ranked, if needed, per Section 7078(d)(7) to resolve a tie-breaker.

(c) In the event there are insufficient funds to fund an applicant's whole activity, the applicant may be offered the amount of funds available, provided it is sufficient to complete the activity.

(d) Applications for each eligible activity shall be evaluated on one or more of the following criteria:

(1) Homeownership Assistance (HA) and Housing Rehabilitation (HR)

(A) NEED and BENEFIT:	Up to 400 points
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The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:

1. Need: (250 out of 400 points)	
i. Overcrowding (both HA and HR)	125
ii. Home Ownership Rate (HA) or	
iii. Age of Housing Stock (HR)	125
2. Benefit (150 out of 400 points)	
i. Low-Mod Percentage	100
ii. Poverty Percentage	50

(B) READINESS:	Up to 300 points
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Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and

sufficient funding to complete the project as applicable. Readiness points will be based on:

1. Activity Specific Operator Experience	Up to 150
2. Program Guidelines	100
3. Waiting List of Pre-Screened Applicants	50

(C) CAPACITY:	Up to 200 points
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Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings.

Capacity points based on:

1. Timely Clearance of Special Conditions	60
2. In-House Organizational Capacity for General Administration and Program Oversight	40
3. Reporting Points (point deductions for missing reports)	70
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30

(D) STATE OBJECTIVES:	Up to 100 points
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1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.
2. Department selection of state objectives shall be based on one or more of the following:
  - i. Emergent circumstances such as natural disaster or economic dislocation.

- ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.
- iii. Imbalance in the geographic distribution of funds in prior years' awards.
- iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.
- v. Federal funding priorities as publicly announced by HUD.
- vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.

(2) Multi-Family Housing Acquisition, Rehabilitation or Acquisition/Rehabilitation

(A) NEED and BENEFIT:	Up to 400 points
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The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:

1. Need: (250 out of 400 points)	
i. Overcrowding	125
ii. Rental Vacancy Rate	125
2. Benefit (150 out of 400 points)	
i. Low-Mod Percentage	100
ii. Poverty Percentage	50

(B) READINESS:	Up to 300 points
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Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and

sufficient funding to complete the project as applicable. Readiness points will be based on:

1. Activity Specific Operator Experience	Up to 200
2. All Funding In Place	75
3. Site Control	25

(C) CAPACITY: Up to 200 points

Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings. Capacity points based on:

1. Timely Clearance of Special Conditions	60
2. In-House Organizational Capacity for General Administration and Program Oversight	40
3. Reporting Points (point deductions for missing reports)	70
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30

(D) STATE OBJECTIVES: Up to 100 points

1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.
2. Department selection of state objectives shall be based on one or more of the following:
  - i. Emergent circumstances such as natural disaster or economic dislocation.

- ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.
- iii. Imbalance in the geographic distribution of funds in prior years' awards.
- iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.
- v. Federal funding priorities as publicly announced by HUD.
- vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.

(3) Public Facilities

(A) NEED and BENEFIT:	Up to 400 points
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The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:

1. Need: (300 out of 400 points)	
i. Severity of Problem	125
ii. Extent of Solution	125
iii. Third Party Documentation	50
2. Benefit (100 out of 400 points)	
i. Low-Mod Percentage	50
ii. Poverty Percentage	50

(B) READINESS:	Up to 300 points			
Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and sufficient funding to complete the project as applicable. Readiness points will be based on:				
1. Experienced In-House Staff and Ready to Start	Up to 100			
2. Project Approval Status	Up to 100			
3. Funding In Place	75			
4. Site Control of Land or Project	25			
(C) CAPACITY:	Up to 200 points			
Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings. Capacity points based on:				
1. Timely Clearance of Special Conditions	60			
2. In-House Organizational Capacity for General Administration and Program Oversight	40			
3. Reporting Points (point deductions for missing reports)	70			
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30			
(D) STATE OBJECTIVES:	Up to 100 points			
1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.				

2. Department selection of state objectives shall be based on one or more of the following:

- i. Emergent circumstances such as natural disaster or economic dislocation.
- ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.
- iii. Imbalance in the geographic distribution of funds in prior years' awards.
- iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.
- v. Federal funding priorities as publicly announced by HUD.
- vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.

(4) Public Improvements (PI) and Public Improvements In Support of Housing New Construction (PIHNC)

(A) NEED and BENEFIT:	Up to 400 points
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The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:

1. Need: (250 out of 400 points) (Note: An Applicant may only apply for PI as an eligible activity or PIHNC as an eligible activity; an Applicant cannot apply simultaneously for both PI and PIHNC activities. The 'Need' scoring criteria is different for PI and PIHNC activities. The 'Need' criteria for a PI activity is based solely on one factor: the seriousness of health and safety issues, for which a maximum of 250 points may be awarded. The 'Need' criteria for a PIHNC activity is based upon five factors which, when added together, allow a maximum of 250 points to be awarded.)

i. PI: Seriousness of Health & Safety Issue	250
Or (for a PIHNC activity)	

STATE REGULATIONS: Title 25 §7050-7126		FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I		Comments
ii. PIHNC: Condition of Approval for PIHNC	150			
iii. PIHNC: Renter Overpayment	25			
iv. PIHNC: Vacancy Rate	25			
v. PIHNC: Overcrowding	25			
vi. PIHNC: Regional Housing Need Assessment (RHNA) Data	25			
2. Benefit (150 out of 400 points)				
i. Low-Mod Percentage	75			
ii. Poverty Percentage	75			
(B) READINESS:		Up to 300 points		
Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and sufficient funding to complete the project as applicable. Readiness points will be based on:				
1. Experienced In-House Staff & Ready to Start	Up to 100			
2. Project Approval Status	Up to 100			
3. Funding In Place	75			
4. Site Control of Land or Project	25			
(C) CAPACITY:		Up to 200 points		
Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions,				

reporting and cooperation in clearing audit and monitoring findings.  
Capacity points based on:

1. Timely Clearance of Special Conditions	60
2. In-House Organizational Capacity for General Administration and Program Oversight	40
3. Reporting Points (point deductions for missing reports)	70
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30

(D) STATE OBJECTIVES: Up to 100 points

1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.
2. Department selection of state objectives shall be based on one or more of the following:
  - i. Emergent circumstances such as natural disaster or economic dislocation.
  - ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.
  - iii. Imbalance in the geographic distribution of funds in prior years' awards.
  - iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.
  - v. Federal funding priorities as publicly announced by HUD.
  - vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.

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(5) Public Services			
(A) NEED:	Up to 400 points		
The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:			
1. Need: (300 out of 400 points)			
i. Severity of Problem	125		
ii. Extent of Solution	125		
iii. Third Party Documentation	50		
2. Benefit (100 out of 400 points)			
i. Low-Mod Percentage	50		
ii. Poverty Percentage	50		
(B) READINESS:			
Up to 300 points			
Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and sufficient funding to complete the project as applicable. Readiness points will be based on:			
1. Operator Experience/Program Readiness	Up to 175		
2. Site Control of Facility for Service	125		
(C) CAPACITY:			
Up to 200 points			
Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions,			

reporting and cooperation in clearing audit and monitoring findings.  
Capacity points based on:

1. Timely Clearance of Special Conditions	60
2. In-House Organizational Capacity for General Administration and Program Oversight	40
3. Reporting Points (point deductions for missing reports)	70
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30

(D) STATE OBJECTIVES:	Up to 100 points
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1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.
2. Department selection of state objectives shall be based on one or more of the following:
  - i. Emergent circumstances such as natural disaster or economic dislocation.
  - ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.
  - iii. Imbalance in the geographic distribution of funds in prior years' awards.
  - iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.
  - v. Federal funding priorities as publicly announced by HUD.
  - vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.

(6) Enterprise Fund:			
(A) NEED:	Up to 400 points		
Need will be based on one or more of the following factors: Unemployment and poverty levels in the jurisdiction, and market analysis.			
1. Need:			
i. Unemployment	100		
ii. Market Analysis	250		
2. Benefit			
i. Poverty Percentage	50		
(B) READINESS:	Up to 300 points		
Readiness factors will include: Program description, program organization and program operator's experience and performance. Readiness points will be based on:			
1. Program Description	25		
2. Program Operator's Status	75		
3. Program Operator Qualifications	200		
(C) READINESS:	Up to 200 points		
Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings. Capacity points based on:			

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1. Timely Clearance of Special Conditions	60		
2. In-House Organizational Capacity for General Administration and Program Oversight	40		
3. Reporting Points (point deductions for missing reports)	70		
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30		
(D) STATE OBJECTIVES:		Up to 100 points	
<p>1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.</p> <p>2. Department selection of state objectives shall be based on one or more of the following:</p> <ul style="list-style-type: none"> <li>i. Emergent circumstances such as natural disaster or economic dislocation.</li> <li>ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.</li> <li>iii. Imbalance in the geographic distribution of funds in prior years' awards.</li> <li>iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.</li> <li>v. Federal funding priorities as publicly announced by HUD.</li> <li>vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.</li> </ul> <p>(7) Planning and Technical Assistance: Pursuant to Health and Safety Code 50832(b), PTA applications will be evaluated on a first in first served basis if there are sufficient PTA funds available, but will be ranked</p>			

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<p>only when the PTA allocation is oversubscribed, (where oversubscribed refers to the situation when there is not enough PTA funds to satisfy all the Applicants who submitted their funding application on the same day.) In the event the PTA allocation is oversubscribed then a tie-breaker process will be utilized, where the tie-breaker process is based on jurisdiction-wide poverty levels, with the poverty levels being ranked in descending order (i.e. the Applicant that has the greatest poverty level will be ranked highest in a tie-breaker situation.)</p> <p>(8) Un-scored Set-Aside: Applications for Housing Assistance, Public Facilities, Public Improvements, Public Services and Enterprise Fund activities may request funding for one unrated eligible activity, up to the maximum specified in the NOFA, which shall be funded if at least one other Housing Assistance, Public Facilities, Public Improvements, Public Service or Enterprise Fund activity proposed in that application ranks high enough to be funded. An applicant may apply for either an un-scored set-aside activity or a PTA but not both.</p> <p>(9) Economic Development Over-the-Counter (ED OTC) activities will be evaluated on a first come first served basis.</p> <p>(A) Applications may apply for one or two annual funding awards. Applicants awarded two annual funding awards may not apply for Over-the-Counter Economic Development funds in the second year.</p> <p>(B) Applications will be evaluated pursuant to Section 7062.1(c)</p> <p>(C) Applications will be evaluated for compliance with HUD underwriting guidelines set forth as Appendix A to 24 CFR Part 570.</p> <p>(10) For purposes of this subsection (d), the foregoing terms shall be defined or applied as follows:</p> <p>(A) NEED and BENEFIT</p> <ol style="list-style-type: none"> <li>1. "3rd Party Documentation" shall mean data provided by federal or state regulatory agencies; by local agencies other than the department or division of the jurisdiction submitting the application; or other data from a recognized non-governmental source</li> <li>2. "Age of Housing" - percentage of all housing units in a jurisdiction that were built prior to 1970.</li> <li>3. "Condition of Approval for PIHNC" shall mean the requirement that the public improvement activity be listed in the housing project's "Conditions of Approval" document issued by the jurisdiction's Planning Department.</li> </ol>		<p>The State definitions in §7078 are consistent with the Act.</p>

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<p>4. "Extent of the Solution" shall mean the extent to which funding the activity will resolve or alleviate the problem or threat.</p> <p>5. "Homeownership Rate" shall mean percentage of all housing units in a jurisdiction that are owner-occupied</p> <p>6. "Low-Mod Percentage" shall mean the percentage of all households in a jurisdiction whose income is 80% or below the County's median household income.</p> <p>7. "Market Analysis" shall mean an analysis of the economic and labor market conditions in a jurisdiction, including local employment rates, size and composition of local businesses, lending opportunities and types of lending products, etc.</p> <p>8. "Overcrowding" shall mean the percentage of all housing units in a jurisdiction that have 1.01 occupants per room or more.</p> <p>9. "Poverty Percentage" shall mean the percentage of persons in a jurisdiction whose income falls below the poverty level based on the latest available Census data.</p> <p>10. "Regional Housing Needs Assessment / RHNA Data" shall mean a regional assessment that quantifies the need for existing and future housing within each jurisdiction, whereby the communities then plan for and decide how they will address this need through the process of completing the Housing Element for their respective General Plans.</p> <p>11. "Rental Vacancy Rate" shall mean the percentage of all rental housing units that are vacant (includes units "for rent" and units rented but not yet occupied)</p> <p>12. "Seriousness of Health and Safety Threat" shall mean the urgency or seriousness of the threat to the public health and safety.</p> <p>13. "Severity of the Problem" shall mean the seriousness of the threat to the public health and safety.</p> <p>14. "Unemployment" shall mean the unemployment rate for the city or county applicant as published in the most recently available State Employment Development Department's "Monthly Labor Force For Counties".</p> <p>(B) Readiness</p> <p>1. "Activity Specific Operator Experience" shall mean the amount of time, if any, that the Activity Operator as set forth in the application has operated the specific activity being applied for.</p> <p>2. "All Funding In Place" shall mean the level of commitment of the full amount of funding necessary to implement and complete the proposed project.</p>		

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<p>3. "Experienced In-House Staff" shall mean the level of work experience the jurisdictional staff has in the CDBG program.</p> <p>4. "Operator Experience / Program Readiness" shall mean the level of work experience the program operator has in the CDBG program. A program operator may be in-house staff, a subrecipient, or a contract consultant.</p> <p>5. "Project Approval Status" shall mean how close the project is to receiving all permits for construction and the Notice to Proceed.</p> <p>6. "Program Description" shall mean a brief narrative description of the proposed activity.</p> <p>7. "Program Guidelines" shall mean the rules by which a jurisdiction operates a CDBG program.</p> <p>8. "Program Operator Qualifications" shall mean the level of work experience the program operator has in the CDBG program.</p> <p>9. "Program Operator's Status" shall mean the level to which the program operator is contractually bound to the jurisdiction: by contract, subrecipient agreement, letter of intent, or not yet bound.</p> <p>10. "Ready to Start" shall mean the jurisdiction's ability to document the steps already taken to clear Special Conditions and implement the activity at the time of application.</p> <p>11. "Site Control" shall mean the jurisdiction's ability to secure the use of the site or sites.</p> <p>12. "Site Control of Facility for Program" shall mean the jurisdiction's ability to secure the use of the site or sites necessary to fully implement the proposed program.</p> <p>13. "Site Control of Land for Project" shall mean the jurisdiction's ability to secure the use of the site or sites necessary to fully implement (construct) the proposed project.</p> <p>14. "Waiting List of Pre-Screened Applicants" shall mean the list maintained by the jurisdiction of local residents interested in applying for assistance within the proposed program, who have indicated they are eligible for assistance.</p> <p>(C) Capacity/Past Performance</p> <p>1. "Cooperation/Compliance in Clearing Audit or Monitoring Findings" shall mean the Department's rating of a jurisdiction's efforts and compliance in clearing audit or monitoring Findings.</p>		

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<p>2. "In-House Organizational Capacity" shall mean the level to which the jurisdiction staff experience meets the requirements of the duty statements for oversight of the CDBG program.</p> <p>3. "Reporting Points" shall mean points accumulated or deducted based on submittal status of required CDBG reports.</p> <p>4. "Timely Clearance of Special Conditions" shall mean clearance of Special Conditions within 90 days from the date of a fully executed grant agreement.</p> <p>(D) State Objectives</p> <p>1. Defined within each individual activity scoring section at (d)(1)(D); (d)(2)(D); (d)(3)(D); (d)(4)(D); (d)(5)(D) and (d)(6)(D).</p>		
<p><b>§ 7080. Citizen Participation.</b></p> <p>Each applicant shall provide opportunities for the participation of all persons who may be affected by the program, especially persons with incomes in the targeted income group. The opportunity to participate shall be available, at minimum, during the following phases of the program: program design and preparation of the application; the preparation of the annual performance report required in Section 7110; the preparation of any program amendments which constitute a reallocation of more than ten percent (10%) of the total program budget; and the preparation of any program amendments which constitute changes in policies, standards, or criteria for program implementation. A minimum of one public meeting is required at each of the program phases listed above. In addition, each applicant shall hold a minimum of one public hearing prior to submitting the application to the Department. The applicant shall provide for public notice prior to each meeting and public hearing and shall make program information available to the public prior to these meetings and hearings. Applicants shall use standard legal and other forms of notice including bilingual notice in areas with concentrations of non-English speaking minorities.</p> <p>Applicants shall invite written comments on the proposed program and shall write a reply to any comments received. This written correspondence shall be maintained as a part of the public record and copies shall be submitted to the Department along with the application. The Department will respond within thirty (30) days to all correspondence written directly to the Department regarding an applicant's program. Applicants shall maintain a file of documents relevant to their block grant</p>	<p><b>§570.486 Local government requirements.</b></p> <p>(a) Citizen participation requirements of a unit of general local government. Each unit of general local government shall meet the following requirements as required by the state at §91.115(e) of this title.</p> <p>(1) Provide for and encourage citizen participation, particularly by low and moderate income persons who reside in slum or blighted areas and areas in which CDBG funds are proposed to be used;</p> <p>(2) Ensure that residents will be given reasonable and timely access to local meetings, consistent with accessibility and reasonable accommodation requirements in accordance with section 504 of the Rehabilitation Act of 1973 and the regulations at 24 CFR part 8, and the Americans with Disabilities Act and the regulations at 28 CFR parts 35 and 36, as applicable, as well as information and records relating to the unit of local government's proposed and actual use of CDBG funds;</p> <p>(3) Furnish citizens information, including but not limited to:</p> <p>(i) The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and anticipated program income);</p>	<p>§ 7080 is not consistent with §570.486(a)(2). Consider adding language concerning the other Federal requirements cited at §570.486(a)(2).</p> <p>§ 7080 is not consistent with §570.486(a)(3).</p>

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<p>program, including proposed activities and final application, minutes of public meetings and hearings, copies of public notices and performance reviews; these documents shall be available to the public during normal working hours. Citizens shall be provided full and timely access to program records and information in a manner consistent with applicable laws regarding personal privacy and obligations of confidentiality.</p>	<p>(ii) The range of activities that may be undertaken with the CDBG funds;</p> <p>(iii) The estimated amount of the CDBG funds proposed to be used for activities that will meet the national objective of benefit to low and moderate income persons; and</p> <p>(iv) The proposed CDBG activities likely to result in displacement and the unit of general local government's antidisplacement and relocation plans required under §570.488.</p> <p>(4) Provide technical assistance to groups that are representative of persons of low- and moderate-income that request assistance in developing proposals (including proposed strategies and actions to affirmatively further fair housing) in accordance with the procedures developed by the State. Such assistance need not include providing funds to such groups;</p> <p>(5) Provide for a minimum of two public hearings, each at a different stage of the program, for the purpose of obtaining residents' views and responding to proposals and questions. Together the hearings must cover community development and housing needs (including affirmatively furthering fair housing), development of proposed activities, and a review of program performance. The public hearings to cover community development and housing needs must be held before submission of an application to the State. There must be reasonable notice of the hearings and they must be held at times and accessible locations convenient to potential or actual beneficiaries, with accommodations for persons with disabilities. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate;</p> <p>(6) Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the unit of general local government's application to the state. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state.</p>	<p>§ 7080 is not consistent with §570.486(a)(4).</p> <p>§ 7080 is not consistent with §570.486(a)(5) requirement to hold meetings at times and accessible locations convenient to potential or actual beneficiaries, with accommodations for persons with disabilities.</p>

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	(7) Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.	§ 7080 is not consistent with §570.486(a)(7) requirement to provide a method for complaints and grievances.
<p><b>§ 7082. Environmental Reviews.</b></p> <p>The grantee shall assume the responsibility for environmental review, decision-making and all other actions required under the California Environmental Quality Act of 1970 (CEQA), Public Resources Code 21000 et seq.; and the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq.</p> <p>In order to ensure compliance with NEPA, grantees shall assume the responsibilities for environmental review and decision making following the procedures for “recipients” of Block Grant funds as set forth in 24 CFR, Part 58, entitled “Environmental Review Procedures for Title I Community Development Block Grant Programs.” The Department shall assume the responsibilities set forth in Subpart C of 24 CFR, Part 58 and fulfill the State's role under Subpart J of 24 CFR, Part 58.</p>	[State code incorporates Subpart C of 24 CFR, Part 58 by reference.]	§ 7082 incorporates the environmental review requirements by reference.
<p><b>§ 7084. Nondiscrimination.</b></p> <p>(a) Discrimination prohibited. No person shall, on the grounds of race, color, religion, ancestry, marital status, physical handicap, national origin, sex, or any other arbitrary basis be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with CDBG funds made available pursuant to this subchapter. All grantees shall comply with the requirements contained in 24 CFR 570.601, 570.602, 570.607, 570.506(g).</p>	<p><b>§570.480 General.</b></p> <p>(e) Religious organizations are eligible to participate under the State CDBG Program as provided in §570.200(j).</p> <p><b>§570.200</b></p> <p>(j) Equal participation of faith-based organizations. The HUD program requirements in §5.109 of this title apply to the CDBG program, including</p>	Title 25 §7050-7126 does not explicitly indicate that Religious organizations are eligible to participate under the State CDBG Program as subrecipients to units of general local government.

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<p><b>§ 7086. Relocation and Acquisition.</b></p> <p>The provisions of the Uniform Relocation Act, as amended, 49 CFR Part 24, and 42 U.S.C. 5304(d) shall be followed where any acquisition of real property is carried out by a grantee and assisted in whole or in part by funds allocated pursuant to this subchapter. In addition, where the rehabilitation of residential rental units results in increased rents for members of the targeted income group, the grantee shall also comply with the requirements of the above-cited sections of federal law. Relocation expenses which may, by law, be paid are eligible expenses for use of CDBG funds.</p>	<p>the requirements regarding disposition and change in use of real property by a faith-based organization.</p> <p><b>§570.488 Displacement, relocation, acquisition, and replacement of housing.</b></p> <p>The requirements for States and state recipients with regard to the displacement, relocation, acquisition, and replacement of housing are in §570.606 and 24 CFR part 42.</p> <p><b>§570.606 Displacement, relocation, acquisition, and replacement of housing.</b></p> <p>(a) General policy for minimizing displacement. Consistent with the other goals and objectives of this part, grantees (or States or state recipients, as applicable) shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of activities assisted under this part.</p> <p>(b) Relocation assistance for displaced persons at URA levels. (1) A displaced person shall be provided with relocation assistance at the levels described in, and in accordance with the requirements of 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).</p> <p>(2) Displaced person. (i) For purposes of paragraph (b) of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition, or acquisition for an activity assisted under this part. A permanent, involuntary move for an assisted activity includes a permanent move from real property that is made:</p> <p>(A) After notice by the grantee (or the state recipient, if applicable) to move permanently from the property, if the move occurs after the initial</p>	<p>§ 7086 does not incorporate or reference §570.606 as required pursuant to §570.480(a).</p>

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	<p>official submission to HUD (or the State, as applicable) for grant, loan, or loan guarantee funds under this part that are later provided or granted.</p> <p>(B) After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity.</p> <p>(C) Before the date described in paragraph (b)(2)(i)(A) or (B) of this section, if either HUD or the grantee (or State, as applicable) determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity.</p> <p>(D) After the “initiation of negotiations” if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:</p> <p>(1) The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon the completion of the project, including a monthly rent that does not exceed the greater of the tenant’s monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household’s average monthly gross income; or</p> <p>(2) The tenant is required to relocate temporarily for the activity but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or</p> <p>(3) The tenant is required to move to another unit in the building/complex, but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.</p> <p>(ii) Notwithstanding the provisions of paragraph (b)(2)(i) of this section, the term “displaced person-” does not include:</p>	

(A) A person who is evicted for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the grantee (or State or state recipient, as applicable) must determine that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance under this section;

(B) A person who moves into the property after the date of the notice described in paragraph (b)(2)(i)(A) or (B) of this section, but who received a written notice of the expected displacement before occupancy.

(C) A person who is not displaced as described in 49 CFR 24.2(g)(2).

(D) A person who the grantee (or State, as applicable) determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, HUD must concur in that determination.

(iii) A grantee (or State or state recipient, as applicable) may, at any time, request HUD to determine whether a person is a displaced person under this section.

(3) Initiation of negotiations. For purposes of determining the type of replacement housing assistance to be provided under paragraph (b) of this section, if the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of real property, the term "initiation of negotiations" means the execution of the grant or loan agreement between the grantee (or State or state recipient, as applicable) and the person owning or controlling the real property.

(c) Residential antidisplacement and relocation assistance plan. The grantee shall comply with the requirements of 24 CFR part 42, subpart B.

(d) Optional relocation assistance. Under section 105(a)(11) of the Act, the grantee may provide (or the State may permit the state recipient to

provide, as applicable) relocation payments and other relocation assistance to persons displaced by activities that are not subject to paragraph (b) or (c) of this section. The grantee may also provide (or the State may also permit the state recipient to provide, as applicable) relocation assistance to persons receiving assistance under paragraphs (b) or (c) of this section at levels in excess of those required by these paragraphs. Unless such assistance is provided under State or local law, the grantee (or state recipient, as applicable) shall provide such assistance only upon the basis of a written determination that the assistance is appropriate (see, e.g., 24 CFR 570.201(i), as applicable). The grantee (or state recipient, as applicable) must adopt a written policy available to the public that describes the relocation assistance that the grantee (or state recipient, as applicable) has elected to provide and that provides for equal relocation assistance within each class of displaced persons.

(e) Acquisition of real property. The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B.

(f) Appeals. If a person disagrees with the determination of the grantee (or the state recipient, as applicable) concerning the person's eligibility for, or the amount of, a relocation payment under this section, the person may file a written appeal of that determination with the grantee (or state recipient, as applicable). The appeal procedures to be followed are described in 49 CFR 24.10. In addition, a low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the grantee's decision to the HUD Field Office. For purposes of the State CDBG program, a low- or moderate-income household may file a written request for review of the state recipient's decision with the State.

(g) Responsibility of grantee or State. (1) The grantee (or State, if applicable) is responsible for ensuring compliance with the requirements of this section, notwithstanding any third party's contractual obligation to the grantee to comply with the provisions of this section. For purposes of the State CDBG program, the State shall require state recipients to certify that they will comply with the requirements of this section.

(2) The cost of assistance required under this section may be paid from local public funds, funds provided under this part, or funds available from other sources.

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	<p>(3) The grantee (or State and state recipient, as applicable) must maintain records in sufficient detail to demonstrate compliance with the provisions of this section.</p>	
<p><b>§ 7088. Labor Standards.</b></p> <p>(a) All laborers and mechanics employed by contactors or subcontractors on construction work assisted pursuant to this subchapter shall be paid by wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276(a) to 276(a)(5)), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), and the contractors and subcontractors shall comply with all regulations issued pursuant to these Acts and with other applicable federal laws and regulations pertaining to labor standards. This section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families. The Secretary of Labor has, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 133z-15), and Section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c))</p> <p>(b) Grantees shall also assume all responsibilities for compliance with the provisions of Cal. Labor Code, Section 1720 et seq., regarding State labor standards compliance for Public Works as defined in Cal. Labor Code, Section 1720.</p>	<p><b>§570.487 Other applicable laws and related program requirements.</b></p> <p>(a) General. Certain statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms...</p> <p><b>Section 110 of the Act:</b></p> <p>a. All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a--276a-5): Provided, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.</p> <p>b. Subsection (a) of this section shall not apply to any individual that:</p> <ol style="list-style-type: none"> <li>1. performs services for which the individual volunteered;</li> <li>2. does not receive compensation for such services; or</li> <li>3. is paid expenses, reasonable benefits, or a nominal fee for such services; and is not otherwise employed at any time in the construction work.</li> </ol>	<p>§ 7088 does not address volunteer labor.</p> <p>There is an inconsistency in the way that § 7088 addresses residential property and the way that Section 110 of the Act addresses residential property. § 7088 indicates: "This section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families." Section 110 of the Act indicates: "this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units."</p>

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<p><b>§ 7090. Architectural Barriers Act of 1968.</b></p> <p>Every building or facility, other than a privately-owned residential structure, designed, constructed, or altered with funds made available pursuant to this subchapter, shall comply with the requirements of 24 CFR Parts 40 and 41 issued pursuant to the Architectural Barriers Act of 1968 (42 U.S.C. 4151).</p>	<p><b>§570.487 Other applicable laws and related program requirements.</b></p> <p>(e) Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally-funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this subpart after November 21, 1996 and that meets the definition of residential structure as defined in 24 CFR 40.2, or the definition of building as defined in 41 CFR 101-19.602(a), is subject to the requirements of the Architectural Barriers Act of 1968 and shall comply with the Uniform Federal Accessibility Standards. For general type buildings, these standards are in appendix A to 41 CFR part 101-19.6. For residential structures, these standards are available from the Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability Rights Division, Room 5240, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-2333 (voice) or (202) 708-1734 (TTY) (these are not toll-free numbers).</p>	<p>§ 7090 is not fully consistent with §570.487.</p>
<p><b>§ 7092. Hatch Act.</b></p> <p>Neither the Community Development Block Grant Program nor the funds provided therefor, nor the personnel employed in the administration of the program shall in any way or to any extent engage in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code.</p>	<p><b>From CDBG Entitlement Regulations: §570.207 Ineligible activities</b></p> <p>(a) The following activities may not be assisted with CDBG funds:</p> <p>(3) Political activities. CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.</p>	<p>The State prohibits the use of CDBG funds for political activities in § 7092 in a manner generally consistent with HUD's prohibition for Entitlements at §570.207(a)(3). Consider incorporating §570.207(a)(3) by reference.</p>
<p><b>§ 7094. Lead-based Paint Poisoning Prevention Act.</b></p> <p>CDBG grantees must comply with HUD's Lead-Based Paint Regulations (24 CFR, Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 et seq. ) requiring prohibition of the use of</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(c) Lead-Based Paint Poisoning Prevention Act. States shall devise, adopt and carry out procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning</p>	<p>§ 7094 should be reviewed and updated to ensure compliance with both LBPPPA and the Residential Lead Based Paint Hazard Reduction Act. Alternatively, reference only 24</p>

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<p>lead-based paint, whenever funding awarded pursuant to this subchapter is used directly or indirectly by the grantee for construction, rehabilitation, or modernization of residential structures, elimination of immediate lead-based paint hazards in residential structures assisted pursuant to this subchapter, or the notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1950 and funded under the CDBG program.</p>	<p>Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title.</p>	<p>CFR Part 35 subparts A, B, J, K, and R in the State code.</p> <p>[What is the significance of residential structures constructed prior to 1950? There is no reference to this benchmark in Part 35.]</p>
<p><b>§ 7096. Use of Debarred, Suspended, or Ineligible Contractors or Subrecipients.</b></p> <p>CDBG funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage in the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR, Part 24. "Subrecipients" includes eligible entities under 24 CFR Part 570.204(a)(2) or private entities as described under 24 CFR 570.202(c)(1).</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(l) Debarment and suspension. The requirements in 2 CFR part 2424 are applicable. CDBG funds may not be provided to excluded or disqualified persons.</p>	<p>§ 7096 should be updated to reflect the applicability of the requirements at 2 CFR part 2424.</p>
<p><b>§ 7097. Grant Agreements.</b></p> <p>(a) Applicants that received award letters will later receive a Grant Agreement, pursuant to 24 CFR 570.503 to be executed by both the local authorized representative and the Department.</p> <p>(b) The Grant Agreement shall reserve monies from the CDBG allocation in an amount approved for funding by the Department pursuant to Section 7076.</p> <p>(c) The Grant Agreement shall include all items required in 24 CFR 570.503, 24 CFR Part 85, OMB Circular A-87, OMB Circular A-133, and all applicable sections in Articles 3 and 4 of this Subchapter.</p>	<p><b>[The State code currently incorporates 24 CFR 570.503 by reference, which then incorporates 24 CFR 570.502 by reference. Both are printed below.]</b></p> <p><b>§570.503 Agreements with subrecipients.</b></p> <p>(a) Before disbursing any CDBG funds to a subrecipient, the recipient shall sign a written agreement with the subrecipient. The agreement shall remain in effect during any period that the subrecipient has control over CDBG funds, including program income.</p>	<p>Federal regulations do not require that the grant agreements executed between the State and units of general local government must contain the exact provisions specified in §570.503. Consider updating § 7097 to reflect requirements for grant agreements consistent with State CDBG program regulations as informed by 24 CFR Part 570 Subpart I and applicable sections of 2 CFR Part 200.</p>

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	<p>(b) At a minimum, the written agreement with the subrecipient shall include provisions concerning the following items:</p> <p>(1) Statement of work. The agreement shall include a description of the work to be performed, a schedule for completing the work, and a budget. These items shall be in sufficient detail to provide a sound basis for the recipient effectively to monitor performance under the agreement.</p> <p>(2) Records and reports. The recipient shall specify in the agreement the particular records the subrecipient must maintain and the particular reports the subrecipient must submit in order to assist the recipient in meeting its recordkeeping and reporting requirements.</p> <p>(3) Program income. The agreement shall include the program income requirements set forth in §570.504(c). The agreement shall also specify that, at the end of the program year, the grantee may require remittance of all or part of any program income balances (including investments thereof) held by the subrecipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs).</p> <p>(4) Uniform requirements. The agreement shall require the subrecipient to comply with applicable uniform requirements, as described in §570.502.</p> <p>(5) Other program requirements. The agreement shall require the subrecipient to carry out each activity in compliance with all Federal laws and regulations described in subpart K of these regulations, except that:</p> <p>(i) The subrecipient does not assume the recipient's environmental responsibilities described at §570.604; and</p> <p>(ii) The subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR part 52.</p>	<p>§570.503(a)(3) conflicts with the §570.489(e) regulation that is applicable to the State and units of general local government.</p> <p>The uniform administrative requirements applicable to the State and units of general local government differ from those described in §570.502. For example, the State may determine its own procurement requirements as discussed in the comments for §7120 below.</p> <p>§570.502(b)(5)(ii) contradicts §7082.</p>

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	<p>(6) Suspension and termination. The agreement shall set forth remedies for noncompliance and provisions on termination in accordance with 2 CFR part 200, subpart D.</p> <p>(7) Reversion of assets. The agreement shall specify that upon its expiration the subrecipient shall transfer to the recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. It shall also include provisions designed to ensure that any real property under the subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the subrecipient in the form of a loan) in excess of \$25,000 is either:</p> <p>(i) Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the recipient; or</p> <p>(ii) Not used in accordance with paragraph (b)(7)(i) of this section, in which event the subrecipient shall pay to the recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the recipient. (No payment is required after the period of time specified in paragraph (b)(7)(i) of this section.)</p> <p>§570.502 Applicability of uniform administrative requirements.</p> <p>(a) Grantees and subrecipients shall comply with 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", except that:</p> <p>(1) Section 200.305 "Payment" is modified for lump sum drawdown for financing of property rehabilitation activities, in accordance with §570.513.</p> <p>(2) Section 200.306 "Cost sharing or matching" does not apply.</p>	<p>The reversion of assets for State CDBG is governed by §570.489.</p> <p>The applicability of uniform administrative requirements to units of general local government should be in accordance with 24 CFR Part 570 Subpart I rather than §570.502 to avoid conflicts. Any additional sections that the Department wants to make applicable to grantees should be incorporated fully into State code or CDBG Program Guidelines to maintain clarity.</p> <p>The State CDBG program is subject to only portions of 2 CFR Part 200, as further specified by program regulations in 24 CFR Part 570:</p> <p>Subpart A, Acronyms and Definitions (2 CFR 200.0 through 200.99): Applicable;</p>

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	<p>(3) Section 200.307 "Program income" does not apply. Program income is governed by §570.504.</p> <p>(4) Section 200.308 "Revisions of budget and program plans" does not apply.</p> <p>(5) Section 200.311 "Real property" does not apply, except as provided in §570.200(j). Real property is governed by §570.505.</p> <p>(6) Section 200.313 "Equipment" applies, except that when the equipment is sold, the proceeds shall be program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient.</p> <p>(7) Section 200.333 "Retention requirements for records" applies except that:</p> <p>(i) For recipients:</p> <p>(A) The period shall be 4 years from the date of execution of the closeout agreement for a grant, as further described in this part;</p> <p>(B) Records for individual activities subject to the reversion of assets provisions at §570.503(b)(7) or the change of use provisions at §570.505 must be maintained for 3 years after those provisions no longer apply to the activity;</p> <p>(C) Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained for 3 years after the receivables or liabilities have been satisfied.</p> <p>(ii) For subrecipients:</p>	<p>Subpart B, General Provisions (2 CFR 200.100 through 200.113): Applicable;</p> <p>Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards (2 CFR 200.200 through 200.213): Not applicable, UNLESS the State has chosen to apply it;</p> <p>Subpart D, Post Federal Award Requirements (2 CFR 200.300 through 200.345): Partially Applicable. Only 24 CFR 200.330, 331, 332 and 343 are directly applicable. See 24 CFR 570.489(m) and (o). The remainder of Subpart D is only applicable if the State has chosen to adopt it. States may adopt Subpart D as part of the requirements to have fiscal controls and accounting procedures pursuant to 24 CFR 570.489(d) and the requirements for procurement policies and procedures pursuant to 24 CFR 570.489(g);</p> <p>Subpart E, Cost Principles (2 CFR 200.400 through 475): applicable with modifications. Subpart E is made applicable by 24 CFR 570.489(p) which also states that all cost items that require Federal agency approval are allowable without prior approval of HUD, except for the following: Depreciation methods for fixed assets; Fines, penalties, damages, and other settlements; Costs of housing, housing allowances, and personal living expenses; and Organization costs. Additionally, pursuant to 24 CFR 570.489(a)(3)(iv), funds from any State CDBG grants may be used to pay planning and program administrative costs associated with any other State CDBG grant; therefore, planning and administration costs are not required to be allocated to a particular CDBG grant; and</p> <p>Subpart F, Audit Requirements (2 CFR 200.500 through 512): Applicable.</p>

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	<p>(A) The retention period for individual CDBG activities shall be the longer of 3 years after the expiration or termination of the subrecipient agreement under §570.503, or 3 years after the submission of the annual performance and evaluation report, as prescribed in §91.520 of this title, in which the specific activity is reported on for the final time;</p> <p>(B) Records for individual activities subject to the reversion of assets provisions at §570.503(b)(7) or change of use provisions at §570.505 must be maintained for as long as those provisions continue to apply to the activity; and</p> <p>(C) Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied.</p> <p>(8) Section 200.343 “Closeout” applies to closeout of subrecipients.</p>	
<p><b>§ 7098. Cash Depositories.</b></p> <p>Grantees are not required to establish physical separation of cash depositories for State CDBG funds. Grantees shall establish and maintain all accounts in accordance with 24 CFR 570.489(d)(2)(iii) and 24 CFR 85.20 et. seq.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(d) Fiscal controls and accounting procedures.</p> <p>(1) A State shall have fiscal and administrative requirements for expending and accounting for all funds received under this subpart. These requirements must be available for Federal inspection and must:</p> <p>(i) Be sufficiently specific to ensure that funds received under this subpart are used in compliance with all applicable statutory and regulatory provisions and the terms and conditions of the award:</p> <p>(ii) Ensure that funds received under this subpart are only spent for reasonable and necessary costs of operating programs under this subpart; and</p> <p>(iii) Ensure that funds received under this subpart are not used for general expenses required to carry out other responsibilities of State and local governments.</p>	<p>§ 7098 should be updated for consistency with §570.489(d).</p>

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	<p>(2) A State may satisfy this requirement by:</p> <p>(i) Using fiscal and administrative requirements applicable to the use of its own funds;</p> <p>(ii) Adopting new fiscal and administrative requirements; or</p> <p>(iii) Applying the provisions in 2 CFR part 200.</p> <p>(A) A State that opts to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200 must comply with the requirements therein.</p> <p>(B) A State that opts to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200 must also ensure that recipients of the State's CDBG funds comply with 2 CFR part 200.</p>	<p>If State code incorporates the requirements of 2 CFR Part 200, HUD will require the State to monitor its grantees for compliance with those requirements.</p>
<p><b>§ 7100. Bonding.</b></p> <p>Grantees shall comply with all bonding requirements described in 24 CFR 85.36(h).</p>	<p>[Outdated Federal regulations.]</p>	<p>§ 7100 should be updated to reference 2 CFR 200.325.</p>
<p><b>§ 7102. Retention and Custodial Requirements for Records.</b></p> <p>The grantee shall retain financial records, supporting documents, statistical records, and all other records pertinent to a grant in accordance with 24 CFR 570.502(a)(16) and 24 CFR 85.42.</p>	<p><b>§570.490 Recordkeeping requirements.</b></p> <p>(a) State records. (1) The State shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the State's administration of CDBG funds under §570.493. The content of records maintained by the State shall be as jointly agreed upon by HUD and the States and sufficient to enable HUD to make the determinations described at §570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include documentation related to the State's AFH, as described in 24 CFR part 5, subpart A (§5.168). The records shall also permit audit of the States in accordance with 2 CFR 200, subpart F.</p> <p>(2) The state shall keep records to document its funding decisions reached under the method of distribution described in 24 CFR</p>	<p>§ 7102 is not consistent with §570.490 and must be updated to incorporate the most recent Federal regulations.</p>

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	<p>91.320(j)(1), including all the criteria used to select applications from local governments for funding and the relative importance of the criteria (if applicable), regardless of the organizational level at which final funding decisions are made, so that they can be reviewed by HUD, the Inspector General, the Government Accountability Office, and citizens pursuant to the requirements of §570.490(c).</p> <p>(3) Integrated Disbursement and Information System (IDIS). The state shall make entries into IDIS in a form prescribed by HUD to accurately capture the state's accomplishment and funding data, including program income, for each program year. It is recommended that the state enter IDIS data on a quarterly basis and it is required to be entered annually.</p> <p>(b) Unit of general local government's record. The State shall establish recordkeeping requirements for units of general local government receiving CDBG funds that are sufficient to facilitate reviews and audits of such units of general local government under §§570.492 and 570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include documentation related to the State's AFH as described in 24 CFR part 5, subpart A (§5.168).</p> <p>(c) Access to records. (1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.</p> <p>(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.</p> <p>(d) Record retention. Records of the State and units of general local government, including supporting documentation, shall be retained for the greater of three years from closeout of the grant to the state, or the period required by other applicable laws and regulations as described in §570.487 and §570.488.</p>	

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<p><b>§ 7104. Program Income.</b></p> <p>(a) “Program Income” means gross income earned by the grantee from grant-funded activities as defined in 24 CFR Section 570.489(e).</p> <p>(b) Grantees shall account for and disburse program income related to projects financed in whole or in part with grant funds pursuant to 24 CFR Section 570.489(e).</p> <p>(c) Grantees shall account for disbursement of program income annually or more frequently as required by the Department for cause.</p> <p>(d) If CDBG local program income will be used to operate a program such as: housing rehabilitation, homeownership assistance, business financial assistance and micro enterprise financial assistance, the applicant shall submit program guidelines to the Department for approval. No CDBG grant funds or local program income shall be expended to operate a program until the Department has approved the program guidelines in writing.</p> <p>(A) The program guidelines shall describe how the program will be operated and how it will comply with State and federal regulations. In addition, program guidelines shall address the following topics:</p> <ol style="list-style-type: none"> <li>1. Financing terms and interest rates;</li> <li>2. Underwriting standards;</li> <li>3. Application processing procedures and timing for loan approvals;</li> <li>4. Procedures for resolving disputes between the participant and the CDBG grantee;</li> <li>5. Description of any property restrictions imposed as a condition of receiving the loan (e.g., resale controls, equity sharing);</li> <li>6. Loan servicing policies addressing the issues of: subordination; refinancing; change in occupancy, change in use, assumptions, and verification of payment of taxes and insurance.</li> <li>7. If the program will involve rehabilitation or construction, procedures for developing the scope of work, description of the contractor procurement and payment process, and a description of the conflict resolution process in the event of a dispute between the contractor and the program participant.</li> </ol>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(e) Program income. (1) For the purposes of this subpart, “program income” is defined as gross income received by a State, a unit of general local government, or a subgrantee of the unit of general local government that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out, except as provided in paragraph (e)(2) of this section. When income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used (e.g., a single loan supported by CDBG funds and other funds; or a single parcel of land purchased with CDBG funds and other funds). Program income includes, but is not limited to, the following:</p> <p>(i) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds, except as provided in paragraph (e)(2)(v) of this section;</p> <p>(ii) Proceeds from the disposition of equipment purchased with CDBG funds;</p> <p>(iii) Gross income from the use or rental of real or personal property acquired by the unit of general local government or subgrantee of the unit of general local government with CDBG funds, less the costs incidental to the generation of the income;</p> <p>(iv) Gross income from the use or rental of real property, owned by the unit of general local government or other entity carrying out a CDBG activity that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;</p> <p>(v) Payments of principal and interest on loans made using CDBG funds, except as provided in paragraph (e)(2)(iii) of this section;</p> <p>(vi) Proceeds from the sale of loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that</p>	<p>State code § 7104 does not fully address §570.489(e).</p> <p>In particular, the requirements at § 7104(b) and (c) do not describe how grantees shall account for, report and disburse program income.</p>

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	<p>are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of the Act;</p> <p>(vii) Proceeds from the sale of obligations secured by loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of the Act;</p> <p>(viii) Interest earned on funds held in a revolving fund account;</p> <p>(ix) Interest earned on program income pending disposition of the income;</p> <p>(x) Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not of low and moderate income, if the special assessments are used to recover all or part of the CDBG portion of a public improvement; and</p> <p>(xi) Gross income paid to a unit of general local government or subgrantee of the unit of general local government from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.</p> <p>(2) "Program income" does not include the following:</p> <p>(i) The total amount of funds, which does not exceed \$35,000 received in a single year from activities, other than revolving loan funds that is retained by a unit of general local government and its subgrantees (all funds received from revolving loan funds are considered program income, regardless of amount);</p> <p>(ii) Amounts generated by activities eligible under section 105(a)(15) of the Act and carried out by an entity under the authority of section 105(a)(15) of the Act;</p>	

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(iii) Payments of principal and interest made by a subgrantee carrying out a CDBG activity for a unit of general local government, toward a loan from the local government to the subgrantee, to the extent that program income received by the subgrantee is used for such payments;

(iv) The following classes of interest, which must be remitted to HUD for transmittal to the Department of the Treasury, and will not be reallocated under section 106(c) or (d) of the Act:

(A) Interest income from loans or other forms of assistance provided with CDBG funds that are used for activities determined by HUD to be not eligible under §570.482 or section 105(a) of the Act, to fail to meet a national objective in accordance with the requirements of §570.483, or to fail substantially to meet any other requirement of this subpart or the Act;

(B) Interest income from deposits of amounts reimbursed to a State's CDBG program account prior to the state's disbursement of the reimbursed funds for eligible purposes; and

(C) Interest income received by units of general local government on deposits of grant funds before disbursement of the funds for activities, except that the unit of general local government may keep interest payments of up to \$100 per year for administrative expenses otherwise permitted to be paid with CDBG funds.

(v) Proceeds from the sale of real property purchased or improved with CDBG funds, if the proceeds are received more than 5 years after expiration of the grant agreement between the State and the unit of general local government.

(3) The State may permit the unit of general local government which receives or will receive program income to retain it, subject to the requirements of paragraph (e)(3)(ii) of this section, or may require the unit of general local government to pay the program income to the State. The State, however, must permit the unit of general local government to retain the program income if it will be used to continue the activity from which it was derived. The State will determine when an activity is being continued.

(i) Program income paid to the State. Except as described in paragraph (e)(3)(ii)(A) of this section, the State may require the unit of general local government that receives or will receive program income to return the program income to the State. Program income that is paid to the State is treated as additional CDBG funds subject to the requirements of this subpart. Except for program income retained and used by the State for administrative costs or technical assistance under paragraph (a) of this section, program income paid to the State must be distributed to units of general local government in accordance with the method of distribution in the action plan under 24 CFR 91.320(k)(1)(i) that is in effect at the time the program income is distributed. To the maximum extent feasible, the State must distribute program income before it makes additional withdrawals from the United States Treasury, except as provided in paragraph (f) of this section.

(ii) Program income retained by a unit of general local government. A State may permit a unit of general local government that receives or will receive program income to retain it. Alternatively, a State may require that the unit of general local government pay any such income to the State unless the exception in paragraph (e)(3)(ii)(A) of this section applies.

(A) A State must permit the unit of general local government to retain the program income if the program income will be used to continue the activity from which it was derived. A State will determine when an activity is being continued. In making such a determination, a State may consider whether the unit of general local government is or will be unable to comply with the requirements of paragraph (e)(3)(ii)(B) of this section or other requirements of this part, and the extent to which the program income is unlikely to be applied to continue the activity within the reasonably near future. When a State determines that the program income will be applied to continue the activity from which it was derived, but the amount of program income held by the unit of general local government exceeds projected cash needs for the reasonably near future, the State may require the local government to return all or part of the program income to the State until such time as it is needed by the unit of general local government. When a State determines that a unit of local government is not likely to apply any significant amount of program income to continue the activity within a reasonable amount of time, or that it is not likely to apply the program income in accordance with applicable requirements, the State may require the unit of general local government to return all of the program income to the State for disbursement to other units of local government. A State that intends to

State code does not specify the conditions under which program income must be returned

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
	<p>require units of general local government to return program income in accordance with this paragraph must describe its approach in the State's action plan required under 24 CFR 91.320 of this title or in a substantial amendment if the State intends to implement this option after the action plan is submitted to and approved by HUD.</p> <p>(B) Program income that is received and retained by the unit of general local government is treated as additional CDBG funds and is subject to all applicable requirements of this subpart, regardless of whether the activity that generated the program income has been closed out. If the grant between the State and the unit of general local government that generated the program income is still open when it is generated, program income permitted to be retained will be considered part of the unit of general local government's grant that generated the program income. If the grant between the State and the unit of general local government is closed out, program income permitted to be retained will be considered to be part of the unit of general local government's most recently awarded open grant. If the unit of general local government has no open grants with the State, the program income retained by the unit of general local government will be counted as part of the State's program year in which the program income was received. A State must employ one or more of the following methods to ensure that units of general local government comply with applicable program income requirements:</p> <p>(1) Maintaining contractual relationships with units of general local government for the duration of the existence of the program income;</p> <p>(2) Closing out the underlying activity, but requiring as a condition of closeout that the unit of general local government obtain advance State approval of either a unit of general local government's plan for the use of program income or of each use of program income by grant recipients via regularly occurring reports and requests for approval;</p> <p>(3) Closing out the underlying activity, but requiring as a condition of closeout that the unit of general local government report to the State when new program income is received; or</p>	<p>to the State for disbursement to other units of general local government, as provided at §570.489(e)(3)(ii)(A). This concept is applicable to situations where the grantee is not likely to apply any significant amount of program income to continue existing activities within a reasonable amount of time. Lack of clear State rules and procedures in this area may be a contributing factor to the State's challenges with timely expenditure of grant funds.</p>

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
	<p>(4) With prior HUD approval, other approaches that demonstrate that the State will ensure compliance with the requirements of this subpart by units of general local government.</p> <p>(iii) Transfer of program income to Entitlement program. A unit of general local government that becomes eligible to be an Entitlement grantee may request the State's approval to transfer State CDBG grant-generated program income to the unit of general local government's Entitlement program. A State may approve the transfer, provided that the unit of general local government:</p> <p>(A) Has officially elected to participate in the Entitlement grant program;</p> <p>(B) Agrees to use such program income in accordance with Entitlement program requirements; and</p> <p>(C) Has set up Integrated Disbursement Information System (IDIS) access and agrees to enter receipt of program income into IDIS.</p> <p>(iv) Transfer of program income of grantees losing Entitlement status. Upon entry into the State CDBG program, a unit of general local government that has lost or relinquished its Entitlement status must, with respect to program income that a unit of general local government would otherwise be permitted to retain, either:</p> <p>(A) Retain program income generated under Entitlement grants and continue to comply with Entitlement program requirements for program income; or</p> <p>(B) Retain the program income and transfer it to the State CDBG program, in which case the unit of general local government must comply with the State's rules for program income and the requirements of this paragraph (e).</p> <p>(4) The State must report on the receipt and use of all program income (whether retained by units of general local government or paid to the State) in its annual performance and evaluation report.</p>	

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
<p><b>§ 7106. Standards for Grantee Financial Management Systems.</b></p> <p>Grantees shall establish and maintain their financial management systems for CDBG grants in accordance with 24 CFR 85.20 et. seq.</p>	<p><b>§570.489 Program Administrative Requirements</b></p> <p>(d) Fiscal controls and accounting procedures. (1) A State shall have fiscal and administrative requirements for expending and accounting for all funds received under this subpart. These requirements must be available for Federal inspection and must:</p> <p>(i) Be sufficiently specific to ensure that funds received under this subpart are used in compliance with all applicable statutory and regulatory provisions and the terms and conditions of the award:</p> <p>(ii) Ensure that funds received under this subpart are only spent for reasonable and necessary costs of operating programs under this subpart; and</p> <p>(iii) Ensure that funds received under this subpart are not used for general expenses required to carry out other responsibilities of State and local governments.</p> <p>(2) A State may satisfy this requirement by:</p> <p>(i) Using fiscal and administrative requirements applicable to the use of its own funds;</p> <p>(ii) Adopting new fiscal and administrative requirements; or</p> <p>(iii) Applying the provisions in 2 CFR part 200.</p> <p>(A) A State that opts to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200 must comply with the requirements therein.</p>	<p>§ 7106 should be updated to reference 2 CFR Part 200, Subpart D.</p>

STATE REGULATIONS: Title 25 §7050-7126	FEDERAL REGULATIONS: 24 CFR Part 570 Subpart I	Comments
	<p>(B) A State that opts to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200 must also ensure that recipients of the State's CDBG funds comply with 2 CFR part 200.</p> <p>§570.489 Program administrative requirements.</p> <p>(p) Cost principles and prior approval. A State must ensure that costs incurred by the State and by its recipients are in conformance with 2 CFR part 200, subpart E. All cost items described in 2 CFR part 200, subpart E, that require Federal agency approval are allowable without prior approval of HUD, to the extent that they otherwise comply with the requirements of 2 CFR part 200, subpart E, and are otherwise eligible, except for the following:</p> <p>(1) Depreciation methods for fixed assets shall not be changed without the express approval of the cognizant Federal agency (2 CFR 200.436).</p> <p>(2) Fines, penalties, damages, and other settlements are unallowable costs to the CDBG program (2 CFR 200.441).</p> <p>(3) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445).</p> <p>(4) Organization costs (2 CFR 200.455).</p>	<p>If State code incorporates the requirements of 2 CFR Part 200, HUD will require the State to monitor its grantees for compliance.</p>
<p><b>§ 7108. Financial Reporting Requirements.</b></p> <p>Grantees shall report at least annually on financial matters as required by 24 CFR 85.41.</p>	<p>[Outdated Federal regulations.]</p>	<p>If the State elects to retain this requirement in its CDBG Program Guidelines, § 7108 should be updated to reference 2 CFR 200.327.</p>
<p><b>§ 7110. Monitoring and Reporting of Program Performance.</b></p>	<p><b>§570.492 State's reviews and audits.</b></p>	<p>§7110(g) of State code is consistent with §570.492 and §570.489(m).</p>

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<p>(a) Grantees shall monitor the performance of grant-supported activities to assure that time schedules are being met and the milestones in the work schedule are being accomplished. This review shall be made for each activity in the approved grant agreement.</p> <p>(b) Each grantee shall prepare annual and periodic performance reports. Except as provided for in subdivision (d) below, performance reports shall not be required more frequently than quarterly unless warranted by special circumstances.</p> <p>(c) The performance report for each activity shall describe the following:</p> <p>(1) A description of actual accomplishments compared to the objectives established for the reporting period. In addition, where the results of activities can be quantified, unit costs shall be reported.</p> <p>(2) Reasons why established objectives were not met.</p> <p>(3) Other information such as a specific explanation of cost overruns or high unit costs.</p> <p>(d) Between the required performance reporting dates, events may occur which have an impact upon the activity or program. In such cases, the grantee shall inform the Department in writing as soon as the following occur:</p> <p>(1) Problems, delays, or adverse conditions which will affect the grantee's ability to attain program objectives, prevent the meeting of time schedules or goals, or preclude the attainment of work units by the established time period. This reporting shall be accompanied by a statement of the action taken or contemplated, and any assistance needed, to resolve the situation.</p> <p>(2) Completion of each milestone in the work schedule.</p> <p>(e) If a performance review conducted by a grantee discloses the need for change in the budget estimates in accordance with the criteria established in Section 7114, the grantee shall submit a request for budget revision pursuant to that section.</p> <p>(f) The Department will make site visits to review program accomplishments and management control systems, and to or provide program assistance.</p> <p>(g) The Department will review each grantee's performance to determine whether:</p> <p>(1) the grantee has carried out the program as described in its application;</p> <p>(2) the program complies with this subchapter and other applicable laws and regulations; and</p>	<p>(a) The state shall make reviews and audits including on-site reviews, of units of general local government as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the Act.</p> <p>(b) In the case of noncompliance with these requirements, the State shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences and prevent a recurrence. The state shall establish remedies for units of general local government noncompliance.</p> <p>§570.489 Program administrative requirements.</p> <p>(m) Subrecipient monitoring and management. The provisions of 2 CFR 200.330 through 200.332 are applicable.</p>	

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<p>(3) the grantee has the continuing capacity to complete the approved program according to time schedules approved by the Department.</p> <p>If performance is found not to be in conformance with the grant application, agreement, or approved amendments, the Department may require corrective or remedial actions, or may recall or disencumber grant funds.</p>		
<p><b>§ 7112. Grant Payment Requirements.</b></p> <p>(a) Grant payment methods shall minimize the time elapsing between the disbursement by a grantee and the transfer of funds from the State to the grantee, whether such disbursement occurs prior to or subsequent to the transfer of funds.</p> <p>(b) Grant payments are made to grantees by an advance or a reimbursement. An advance is a payment made by the State to a grantee upon its request before cash outlays are made by the grantee, subject to limitations provided in the grant agreement, and based on the type of grantee program. A reimbursement is a payment made to a grantee upon request for payment of costs already paid by grantee.</p> <p>(c) Unless otherwise provided by regulation, the State shall not withhold payments for allowable charges made by grantees at any time during the grant period unless (1) a grantee has failed to comply with the grant agreement, or (2) the grantee is indebted to the State and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the Department. Under such conditions, the Department may, upon 15 days notice, inform the grantee that payments will not be made for obligations incurred after a specified date until the noncompliance is resolved or the indebtedness to the State is liquidated.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(c) Federal grant payments. The State's requests for payment, and the Federal Government's payments upon such requests, must comply with 31 CFR part 205. The State must use procedures to minimize the time elapsing between the transfer of grant funds and disbursement of funds by the State to units of general local government. States must also have procedures in place, and units of general local government must use these procedures to minimize the time elapsing between the transfer of funds by the State and disbursement for CDBG activities.</p>	<p>§ 7112 is consistent with §570.489(c).</p>
<p>§ 7114. Revision Procedures.</p> <p>(a) "Cost categories," as used in this section, means any of the following: personal services, operating expenses, capital outlays, loans, grants or indirect costs.</p> <p>(b) "Grant budget," as used in this section, means the approved financial plan to carry out the purpose of the grant program, or activity. It should be related to performance for program evaluation purposes.</p>	<p>[§ 7114 is State code requirement based on outdated Federal regulations.]</p>	<p>§ 7114 is adapted from 24 CFR 85.30, now 2 CFR §200.308.</p>

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<p>(c) The grantee may not amend the program or activity in a manner which is inconsistent with the original basis for the award without the Department's written approval of the change. In addition, grantees shall request prior written approval from the Department when a program or budget revision will be necessary for the following reasons:</p> <p>(1) Changes are to be made in the scope or the objective of the program or activity.</p> <p>(2) Additional funding is needed.</p> <p>(3) Amounts budgeted for indirect costs must be reallocated to absorb increases in direct costs.</p> <p>(4) The need for transfers of funds among cost categories or activities when the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the activity budget. The same criteria shall apply to the cumulative amount of transfers among programs or activities when budgeted separately for an award, except that no transfer is permitted that would cause any grant appropriation, or part thereof, to be used for purposes other than those intended in the grant program; or</p> <p>(5) When the Department awards a grant which provides support for both construction and nonconstruction work to make any Fund or budget transfers between the two types of work supported.</p> <p>(d) Grantees shall notify the Department whenever the amount of authorized funds is expected to exceed the needs of the grantee by more than ten thousand dollars (\$10,000).</p> <p>(e) Within 30 days from the date of receipt of the request for grant budget and program revisions, the Department shall review the request and notify the grantee whether or not the revisions have been approved. If the revision is still under consideration at the end of 30 days, the Department shall inform the grantee in writing as to when the grantee may expect the decision.</p>		
<p>§ 7116. Grant Closeout Procedures.</p> <p>(a) The following definitions shall apply for the purpose of this section.</p> <p>(1) "Grant closeout" is the process by which the Department determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the State.</p>	<p>§570.489 Program administrative requirements.</p> <p>(i) Closeout of grants to units of general local government. The State shall establish requirements for timely closeout of grants to units of general local government and shall take action to ensure the timely closeout of such grants.</p> <p><b>§570.489 Program administrative requirements.</b></p>	<p>The State has established requirements for timely closeout of grants to units of general local government.</p> <p>§ 7116 Grant Closeout Procedures should be updated to incorporate and reference the</p>

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<p>(2) "Date of completion" is the date when all work under a grant is completed, or the date in the grant agreement, or any supplement or amendment thereto on which funding ends.</p> <p>(3) "Termination of a grant" means the cancellation of funding, in whole or in part, at any time prior to the date of completion.</p> <p>(4) "Suspension of a grant" is an action by the Department which temporarily suspends funding under the grant pending either corrective action by the grantee or a decision by the Department to terminate the grant.</p> <p>(5) "Disallowed costs" are those charges to a grant which the Department determines to be unallowable.</p> <p>(b) The grant closeout procedures include the following:</p> <p>(1) Upon request, the Department shall make payments to a grantee for allowable reimbursable costs under the grant being closed out.</p> <p>(2) The grantee shall refund to the Department any balance of unobligated cash advanced to the grantee that is not authorized to be retained by the grantee.</p> <p>(3) Within 90 days after the date of completion of the grant the grantee shall provide the Department with all financial, performance, and other reports required as a condition of the grant. The Department may grant time extensions for cause when requested by the grantee.</p> <p>(4) When authorized by the grant agreement, the Department may make a settlement for any upward or downward adjustments to the State share of costs after the reports are received.</p> <p>(5) The grantee shall account for any property acquired in whole or in part with grant funds, in accordance with the provisions of Section 7118, pertaining to property management and Section 7104, pertaining to program income.</p> <p>(6) In the event a final audit has not been performed prior to the closeout of the grant, the Department shall retain the right to recover the amount of disallowed costs after fully considering the recommendations of the final audit.</p> <p>(c) The Department shall provide procedures to be followed when a grantee fails to comply with the agreement. When that occurs, the Department may, after notifying the grantee in writing, suspend the grant and withhold further payments, or prohibit the grantee from incurring additional obligations of grant funds, pending corrective action by the grantee or a decision to terminate in accordance with subdivision (d). The Department shall allow costs which the grantee could not avoid during the</p>	<p>(o) Grant Closeout.—HUD will close grants to States in accordance with the grant closeout requirements of 2 CFR 200.343.</p>	<p>Uniform Administrative Requirements of 2 CFR Part 200.</p>

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<p>period of suspension provided that the costs meet the provisions of the U.S. Office of Management and Budget (OMB) Circular A-87.</p> <p>(d) Grants may be terminated as follows:</p> <p>(1) Termination for cause. The Department may terminate any grant, in whole or in part, at any time before the date of completion whenever the Department determines that the grantee has failed to comply with the conditions of the grant agreement. The Department shall promptly notify the grantee in writing of the determination, the reasons for the termination, and the effective date. Payments made to grantees or recoveries by the Department under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties.</p> <p>(2) Termination for convenience. The Department or the grantee may terminate a grant, in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, and the portion of the grant to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date of the termination, and shall cancel as many outstanding obligations as possible. The Department will fund all eligible obligations that the grantee cannot cancel.</p>		
<p><b>§ 7118. Property Management Standards.</b></p> <p>Grantees shall adhere to the property management standards described in 24 CFR 85.30 et. seq.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(j) Change of use of real property. The standards described in this section apply to real property within the unit of general local government's control (including activities undertaken by subrecipients) which was acquired or improved in whole or in part using CDBG funds in excess of the threshold for small purchase procurement (2 CFR 200.88). These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of the unit of general local government's grant.</p> <p>(1) A unit of general local governments may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made, unless the unit of general local government provides affected citizens with reasonable notice of and opportunity to comment on any proposed change, and either:</p>	<p>§ 7118 should be updated to reference 2 CFR §200.310 - §200.316 and also to incorporate the requirements of §570.489(j).</p>

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	<p>(i) The new use of the property qualifies as meeting one of the national objectives and is not a building for the general conduct of government; or</p> <p>(ii) The requirements in paragraph (j)(2) of this section are met.</p> <p>(2) If the unit of general local government determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (j)(1) of this section, it may retain or dispose of the property for the changed use if the unit of general local government's CDBG program is reimbursed or the State's CDBG program is reimbursed, at the discretion of the State. The reimbursement shall be in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property, except that if the change in use occurs after grant closeout but within 5 years of such closeout, the unit of general local government shall make the reimbursement to the State's CDBG program account.</p> <p>(3) Following the reimbursement of the CDBG program in accordance with paragraph (j)(2) of this section, the property no longer will be subject to any CDBG requirements.</p> <p>(k) Accountability for real and personal property. The State shall establish and implement requirements, consistent with State law and the purposes and requirements of this subpart (including paragraph (j) of this section) governing the use, management, and disposition of real and personal property acquired with CDBG funds.</p>	
<p><b>§ 7120. Procurement Standards.</b></p> <p>Grantees shall adhere to the requirements of 24 CFR 85.36.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(g) Procurement. When procuring property or services to be paid for in whole or in part with CDBG funds, the State shall follow its procurement policies and procedures. The State shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the State. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall</p>	<p>State code incorporated the Entitlement requirement to follow local procurement procedures provided that they conform to the Uniform Administrative Requirements.</p> <p>Update § 7120 to refer to 2 CFR 200.318-326 or exercise the option pursuant to §570.489 to</p>

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	<p>not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by §570.489(h).) The State shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, Executive orders, and implementing regulations. The State shall make subrecipient and contractor determinations in accordance with the standards in 2 CFR 200.330.</p>	<p>specify State procurement requirements to be followed.</p> <p>§570.489 provides the State with more latitude to specify its own procurement requirements provided that the cost plus a percentage of construction costs methods of contracting are not used and rules concerning conflict of interest are observed.</p>
<p><b>§ 7122. Audit Requirements.</b></p> <p>Grantees shall arrange for independent audits on all CDBG grants consistent with OMB Circular A-128.</p>	<p><b>The audit requirements of §200.500 - §200.512 are applicable to the State and its grantees.</b></p>	<p>§ 7122 should be updated to reference 2 CFR §200.500 - §200.512.</p>
<p><b>§ 7124. Lump Sum Drawdown for Property Rehabilitation Financing.</b></p> <p>Subject to the conditions prescribed in this section, grantees may draw funds from the Department in a single lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately-owned properties as a part of the grantee's program.</p> <p>The conditions prescribed for lump sum drawdown accounts are described in 24 CFR 570, Section 570.513.</p>	<p><b>[State code incorporates Entitlement regulations from 24 CFR 570.513]</b></p>	<p>This is a reasonable approach based on §570.480(c) and 2 CFR 200.305.</p>
<p><b>§ 7126. Conflict of Interest.</b></p> <p>Grantees shall enforce standards for conflicts of interest which govern the performance of their officers, employees, or agents engaged in the award and administration of State CDBG grant funds. The standards for conflicts of interest shall prohibit any conflict of interest as defined in Title 24 Code of Federal Regulations Part 570.611 (as revised on 10-14-83) which is hereby incorporated by reference. The Department shall use the criteria and standards set forth in Title 24 CFR 570.611 in evaluating questions concerning potential conflicts of interest.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(h) Conflict of interest—(1) Applicability. (i) In the procurement of supplies, equipment, construction, and services by the States, units of local general governments, and subrecipients, the conflict of interest provisions in paragraph (g) of this section shall apply.</p> <p>(ii) In all cases not governed by paragraph (g) of this section, this paragraph (h) shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance with CDBG funds by the unit of general local government or its subrecipients, to individuals, businesses and other private entities.</p>	<p>§ 7126 should be updated to reference §570.489(h).</p>

(2) Conflicts prohibited. Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (h)(3) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(3) Persons covered. The conflict of interest provisions for paragraph (h)(2) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the State, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving CDBG funds.

(4) Exceptions: Thresholds requirements. Upon written request by the State, an exception to the provisions of paragraph (h)(2) of this section involving an employee, agent, consultant, officer, or elected official or appointed official of the State may be granted by HUD on a case-by-case basis. In all other cases, the State may grant such an exception upon written request of the unit of general local government provided the State shall fully document its determination in compliance with all requirements of paragraph (h)(4) of this section including the State's position with respect to each factor at paragraph (h)(5) of this section and such documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the State or unit of general local government as appropriate. An exception may be considered only after the State or unit of general local government, as appropriate, has provided the following:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the attorney for the State or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate State or local law.

(5) Factors to be considered for exceptions. In determining whether to grant a requested exception after the requirements of paragraph (h)(4) of this section have been satisfactorily met, the cumulative effect of the following factors, where applicable, shall be considered:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(3) of this section;

(vi) Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

# Appendix V: Promising Practices – Profiles of Six High-Performing States

## Ohio

### Awards

The Ohio Department of Community Development (OCD) administers the State and Small Cities CDBG Program for the state. OCD retains 2.2 percent for state General Administration and 0.6 percent for Technical Assistance. The remaining funds are distributed through the following program set-asides:

<b>PROGRAM</b>	<b>SET-ASIDE</b>
Community Allocation	
Neighborhood Revitalization	47%
Downtown Revitalization	
Critical Infrastructure	
Economic Development	25%
Housing Preservation	20%
Target of Opportunity	5%

The state has adopted a multi-system approach to the distribution of funds:

- Mini-Entitlement Allocation
- Competitive Application
- Ongoing Application

The OCD mini-entitlement program allocates approximately 25 percent of the state’s allocation to approximately 100 grantees on a bi-annual basis. Funds are allocated to half the eligible grantees every other year in order to reduce the number of contracts and activities that the state must oversee.

In 2013, in an effort to reduce the administrative burden on the state, OCD implemented an eligibility threshold for local governments. The number of eligible applicants was reduced from over 600 to approximately 100 by allowing only jurisdictions with a population of 15,000 or more to be direct applicants. Smaller jurisdictions must apply through a county government.

### Readiness Requirements

OCD has relatively few “readiness” requirements at the time of application. However, OCD implements very strict contract milestones that are spelled out in the application process. These “readiness” factors, such as ability to implement the project within the contract time period, are considered as part of the competitive application process.

## Training and Technical Assistance (TA)

OCD provides extensive training and technical assistance to local governments and grant consultants. OCD keeps up-to-date materials and training information on its website at <https://development.force.com/OCDKnowledgeArticles/s/> and has dedicated TA staff in the CDBG division. The Department has numerous on-line trainings and webinars on its website for grantees to consult in addition to the Grant Management Manual, forms, policy updates, and additional information.

The Department participates in a quarterly two-and-a-half-day Ohio Conference on Community Development to provide updates, TA, and general relationship-building with grantees. OCD is also planning to add a one-day training course to these conferences in lieu of an Annual Training Conference.

## Monitoring Plan

OCD has an on-site “review” with a local jurisdiction staff member on every grant. Based on the threshold review at application, a determination is made if a compliance specialist will attend as well. The state also monitors every grant prior to closeout and 90 percent are monitored on site.

## Vermont

### Awards

The Vermont Department of Housing and Community Development (DHCD) administers the State and Small Cities CDBG Program. DHCD retains two (2) percent for state General Administration and one (1) percent for Technical Assistance. The remaining funds are distributed through the following program set-asides:

<b>PROGRAM</b>	<b>SET-ASIDE</b>
Accessibility	\$300,000
All other eligible activities	Remainder of Allocation

The state has adopted an ongoing quarterly application cycle. Applications that are received by the quarterly deadline are reviewed, evaluated, and approved at a quarterly board meeting.

## Training and Technical Assistance (TA)

DHCD provides regular training and technical assistance to grantees on a variety of compliance topics. The state provides a minimum of one in-person training per year.

The DHCD website at <http://accd.vermont.gov/community-development/funding-incentives/vcdp> also includes a variety of resources and guidance for grantees.

## Readiness Requirements

DHCD requires that applicants meet readiness requirements at the time of application based on project type. These requirements include:

- Site control
- Leverage funding committed
- Local match provided
- Market study completed (housing)
- Analysis of grant administration consultant Included

## Monitoring Plan

Risk-based monitoring is based on such factors as size of award, first time receiving an award, complexity of project, staff turnover, past performance, outstanding or delinquent reports, and one or more audit findings/internal control issues regarding program performance or compliance. All grantees are monitored on a regular basis in accordance with program-specific guidelines, state and federal regulations.

Monitoring of all programs includes desk review of requisitions and supporting back-up documentation, review of program reports, and audit reports. CDBG monitoring also includes on-site reviews to interview program and administrative staff and to conduct on-site construction inspections.

## Connecticut

### Awards

The Connecticut Department of Housing (DOH) administers the State and Small Cities CDBG Program. DOH retains two (2) percent for state General Administration and one (1) percent for Technical Assistance. The DOH does not have set-asides based on activity or project type. All applications are submitted annually and compete for funds based on rating and ranking criteria. Due to the high priority of housing in the Connecticut Consolidated Plan, the state does primarily Owner-Occupied Rehabilitation and Multifamily Housing projects.

The state has adopted a single annual application cycle.

### Readiness Requirements

Most of DOH grantees receive funding for their housing programs every year; therefore the state requires that the previous year's funds are spent to a certain threshold prior to award of new funds. Those thresholds are:

<b>GRANT YEAR</b>	<b>EXPENDED FUNDS</b>
2015 (3 years prior)	100%
2016 (2 years prior)	50%

2017 (prior year)

25%

### **Training and Technical Assistance (TA)**

DOH conducts a minimum of one Annual Application Workshop per year. The state recently revised its Grant Management Manual and updated its internal policies and procedures. At that time, the state provided two additional trainings for its grantees as a refresher on CDBG compliance.

The DOH website at <http://www.ct.gov/doh/cwp/view.asp?a=4513&Q=596970&PM=1> and <http://www.ct.gov/doh/cwp/view.asp?a=4513&Q=597044&PM=1> includes a variety of resources and guidance for grantees.

### **Monitoring Plan**

All projects are monitored by DOH on site at least twice. During the construction phase, an “interim monitoring” is scheduled and the DOH construction specialist will visit the site and review bidding and contract documents. At project closeout the grantee is monitored on site for all other compliance issues.

## **Louisiana**

### **Awards**

The Louisiana Office of Administration (OOA) administers the State and Small Cities CDBG Program. OOA retains two (2) percent for state General Administration and one (1) percent for Technical Assistance. The remaining funds are allocated for public improvements only (water, sewer, storm, gas) through four separate programs, including economic development.

### **Readiness Requirements**

OOA has implemented a set of evaluation criteria that are based on capacity and prior performance. No grantee is awarded funds if OOA determines it does not have the capacity to carry out the project within the contract period. Also, for Program Year 2018 and forward, all prior grants must have received conditional close-out (been monitored).

### **Training and Technical Assistance (TA)**

OOA conducts a minimum of one Annual Application Workshop per year. The state also provides TA on an ongoing basis through workshops, one-on-one meetings and monitoring site visits.

The OOA website at [http://www.doa.la.gov/Pages/ocd/CDBG/about\\_lcdbg.aspx](http://www.doa.la.gov/Pages/ocd/CDBG/about_lcdbg.aspx) includes a variety of resources and guidance for grantees.

## **Monitoring Plan**

The OOA monitoring plan for all projects includes desk review of progress throughout the life of the project via draws and reports. In addition, all projects include an on-site review, generally at the point when 50 percent of grant funds have been expended. A site visit may be a comprehensive program evaluation, or it may be oriented toward assessing performance in specific areas.

Each project receives a final desk review at project closeout.

## **Nevada**

### **Awards**

The Nevada Governor's Office of Economic Development (GOED) administers the State and Small Cities CDBG Program. GOED retains two (2) percent of grant funds for state General Administration and one (1) percent for Technical Assistance. The remaining funds are allocated through a single annual competitive application cycle.

### **Readiness Requirements**

GOED application review takes into account past project performance and readiness. Scoring criteria include:

- Commitment of cost-sharing funds
- Proposed timeline of project
- Ability of project to implement on July 1
- Status of proposed project (if a phase of multi-year project)
- Ownership issues

### **Training and Technical Assistance (TA)**

GOED provides Grant Administrator training on a regular basis and on-site monitoring visits. The staff have regular frequent contacts with the grantees throughout the life of a project.

The GOED website at <http://www.diversifynevada.com/programs-resources/cdbg> includes a variety of resources and guidance for grantees.

## **Monitoring Plan**

GOED staff use the Quarterly Program Report to monitor the progress of projects and detect problems. In addition, during the life of the project, CDBG staff members conduct desk monitoring of all grants. A risk assessment of all open grants is conducted annually. When a grant is at the closing stage, CDBG staff members conduct a closeout review. If the project has

not been site monitored, a pre-monitoring review is conducted and a monitoring visit is scheduled.

## Iowa

### Awards

The Iowa Department of Economic Development (IEDA) administers the State and Small Cities CDBG Program. IEDA retains two (2) percent for state General Administration and one (1) percent for Technical Assistance. The remaining funds are distributed through the following program set-asides:

<b>PROGRAM</b>	<b>SET-ASIDE</b>
Water/Sewer Improvements	\$7,000,000
Public Facilities	\$1,500,000
Housing	\$4,700,000
Downtown Revitalization	\$3,200,000
Economic Development	\$3,200,000

The state has adopted a multi-system approach to the distribution of funds:

- Competitive Application
- Ongoing Application

### Readiness Requirements

IEDA requires that applicants meet readiness requirements at the time of application based on project type. These requirements include:

- Consultants Procured (Architectural, Engineering, and Grant Administration)
- Local Match Provided
- Leverage Documented

The following are also weighted in the scoring and are required if a jurisdiction wants to be a highly competitive applicant:

- Environmental Review Completed
- Preliminary Design Completed

### Training and Technical Assistance (TA)

IEDA provides several training opportunities per year. An Annual Application Workshop is conducted by staff. In addition, IEDA provides regular annual compliance trainings such as Environmental Review, Labor Standards, and Fair Housing. These trainings are either facilitated by IEDA staff or outside consultants.

The IEDA website at <https://www.iowaeconomicdevelopment.com/downloads> includes a variety of resources and guidance for grantees.

### **Monitoring Plan**

The IEDA monitoring plan for all projects includes desk review of progress throughout the life of the project via draws and reports. In addition, all projects include an on-site review at either 30 percent or 50 percent expended based on project type. Each project receives a final desk review at project closeout.

## Appendix VI: Los Angeles County CDBG Profile

To inform the CDBG program redesign process, HCD staff researched the Los Angeles (LA) County CDBG Program<sup>27</sup> to explore promising practices and lessons learned. Specifically, staff sought to understand LA's operational and administrative processes, strategies used to ensure timely expenditure of funds, monitoring and compliance practices, and program income policies.

### LA County CDBG Program Overview

Los Angeles (LA) County is an entitlement recipient of federal CDBG program funding. This means it receives a direct allocation from HUD, rather than participating in the state program administered by HCD. On behalf of LA County, the Los Angeles Community Development Commission (LACDC), with a full-time staff of 16, serves a population of 2,378,796. This makes the LA CDBG Program the largest Urban County CDBG program in the nation. The LACDC receives approximately \$21 million annually in CDBG funds<sup>28</sup>, of which it retains 20 percent (\$5 million) for program administration. The remaining \$16 million is distributed using an allocation formula to 47 participating cities (PCs) and five Supervisorial Districts (Districts) for eligible Community Development CDBG activities<sup>29</sup>.

To distribute CDBG funds, LACDC adopted HUD's allocation method established in 1975, which yields an approximate 50/50 split between the 47 PCs and the five Districts. Each District reviews funding requests for Community Development activities submitted by Community Based Organizations (CBOs), County Departments, and LACDC. Once the Districts select the activities they want to fund, the funded activities are made part of the One-Year Action Plan that is approved by the Board of Supervisors (BOS) for submission to HUD.

Both entitlement recipients and state CDBG program recipients have the same CDBG three-year expenditure requirement. HUD's expenditure requirement means grantees must have no more than 150 percent (equal to 1.5 years) of the annual allocation on hand as of April each year to be in compliance with the requirement. The LACDC consistently operates the program within HUD's expenditure requirement. For 2016 – 2018, its expenditure rates were 145 percent (1.45 years), 143 percent (1.43 years), and 147 percent (1.47 years), respectively. This success is attributed to the following three critical factors: an online grant management system, proactive planning, and ongoing technical assistance and monitoring.

### CDBG Online Grant Management System

To proactively administer and operate the CDBG program, the LACDC provides one-on-one ongoing planning, comprehensive training, technical assistance, and monitoring to all grantees. This one-on-one approach is made possible because of implementation of the CDBG Online

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<sup>27</sup> Sources for this profile include HUD, LACDC website, and conversations with Ms. Jenkins, LACDC Grant Unit Manager, in March-May 2018.

<sup>28</sup> In comparison, the state of California receives approximately \$27 million annually for the state CDBG program.

<sup>29</sup> Please see page 5 for information on Economic Development activities.

Grant Management System. The system allows both grantees and LACDC staff to easily upload, manage, modify, and store program and project data. This system requires users to submit applications, activity data, fund requests, quarterly and annual reports, program income reports, and other activity-specific documentation electronically. From the information submitted by grantees, the system compiles and transfers data into required reports. It generates all reports, including expenditure reports, Quarterly Progress Reports (QPR), and annual reports for LACDC staff review. Online technical assistance with capacity-building tools and trainings to assist grantees in using the system correctly is available through the system.

The efficiencies of the system drastically reduce the administrative burden for LACDC staff, and allows them to review data, submit timely reports to HUD, and provide annual monitoring and technical assistance to all grantees. QPRs and monthly funding requests are required whether reimbursements are requested or not. The CDBG Program Managers use the data to identify any non-performers early on, and to initiate the In-Progress Monitoring (IPM). During the last 12 months, the system collected and compiled data that generated 1,456 QPRs, as well as 364 CDBG contracts and amendments for 221 activities.

The CDBG Online Grant Management System is a crucial resource that allows LACDC to provide proactive planning, ongoing technical assistance, and timely monitoring to successfully implement its CDBG program in compliance with federal requirements.

### **Annual Planning Process**

The LACDC implements an annual planning process in which CDBG program staff work closely with grantees to proactively plan and develop projects in a process that starts in September for the upcoming program year, July 1 to June 30. As part of this process, the PCs and Districts must submit the upcoming program year activities funding requests no later than February. All final funding decisions are made in March. The planning process concludes in June when the federally required One-Year Action Plan is submitted to HUD. This nine-month planning process ensures that grantees develop activities that are in a strong position to spend funds timely. It ensures immediate implementation on July 1 each year (or as soon as HUD allocates funds) and timely expenditure of grant funds.

For LACDC, the top priority in this process is to initiate and support the planning efforts of each PC and the five Districts. LACDC CDBG program staff work directly with the 47 PCs to assist in their planning activities and budgets for the coming year. In November, the PC's receive CDBG online system training on how to complete the funding requests process. With training in November, PCs have November, December, and January to prepare and submit their application funding requests on line. To apply for funds, PCs are required to hold public hearings for proposed activities and each of the PC's City Councils must approve its proposed activities, in compliance with the federal citizen participation requirement to ensure these funds support housing and community development needs of communities.

The five participating Districts use the following Community Resource Investment Strategy (CRIS) to determine which activities will be funded:

- *August/September* - The community development *needs surveys* are completed and forwarded to the five Districts for review and consideration.
- *October* - A funding request training is held for County departments, CBOs, and LACDC division staff. This training provides the requirements and processes for submitting applications for potential activities to Districts for review.
- *November* – Review of funding requests received from County departments, CBOs, and LACDC divisions by Districts begins.
- *January* – Districts submit proposed activity funding requests to LACDC.
- *February* - The draft CRIS, which lists all proposed Districts' activities with their respective recommended funding requests, is forwarded to the Districts for review.
- *March* – Final approval of activity recommendations from each District is requested by the 1<sup>st</sup> week of March, leading to the preparation of the draft One-Year Action Plan (Plan) by LACDC.
- *April* – Draft Plan is submitted to each District for review and comment and a Board letter is filed to place the item on the Agenda for the following month's Board of Supervisor's meeting. Tentative letters of award and regret letters are sent.
- *April/May* - Proposed activities to receive funding based on approval of the One-Year Action Plan are posted on the LACDC website 30 days prior to a public hearing held at the Board meeting.
- *May* - The Plan is presented for final approval at a public hearing held by the Board of Supervisors in late May.
- *June* - The approved One-Year Action Plan is submitted to HUD for funding. Submission of the plan triggers funding for the program year starting July 1.
- *July* – LACDC allocates funds according to the HUD-approved Plan.

### **Technical Assistance and Monitoring**

The LACDC's In-Progress Monitoring (IPM) approach is a proactive and interactive process that identifies potential problems early on. This process incorporates instructional training, ongoing technical assistance, routine site visits, quarterly reporting, and annual monitoring. These efforts promote efficient and effective grantee performance and program knowledge. This approach brings together programmatic and financial resources within a Grant Management Unit (GMU) using a standardized risk assessment to determine the degree of required monitoring.

All 47 PCs and five Districts receive an on-site financial monitoring every other program year to identify any financial discrepancies. The on-site visit provides financial management training and technical assistance on financial record keeping and financial reporting requirements of the CDBG program.

## **Risk Assessment**

Early in the monitoring process, each activity receives a standardized risk assessment, conducted by both the Program Management Team (PMT) and Financial Review and Management Team (FRMT). The risk assessment considers the following:

- Newly funded agencies
- Loss of expertise through staff turnover
- Low expenditure drawdown
- History of disallowed costs or frequent and recurring monitoring findings
- Experience in administering public funds
- High dollar projects
- Single Audit findings and internal control deficiencies
- Accuracy of funding requests and ability to meet deadlines
- Prior year monitoring results

The risk assessment makes it possible for LACDC to monitor 100 percent of currently funded activities. The results determine the degree of monitoring planned for each grantee and activity during the program year and determine which components of an activity will be monitored. It also identifies which of the following actions will be a part of the monitoring process:

- Individual meetings with the grantee during the planning phase for the upcoming program year
- Desktop monitoring
- On-site field visits
- Timely communication on deficiencies found

## **Program Monitoring Activities**

Depending on the degree of risk identified, a program will receive either full monitoring or limited monitoring. Full monitoring ensures compliance with all programmatic and financial requirements, including reviewing an agency's financial management system, internal controls and supporting financial documentation to verify expenditures reported on the CDBG Funding Requests. Limited monitoring is a desktop review and primarily focuses on Quarterly Performance Reports and supporting documentation.

In both full and limited monitoring, LACDC follows HUD's policy to determine when programs or projects are "at risk," using the following criteria:

1. No reported expenditures for a year, or
2. No reported accomplishments for three years, or

3. Eighty (80) percent of funds expended and no accomplishments reported.

If any of these deficiencies are identified, a remediation plan is required and it must explain the reasons for any delay(s) in the activity, provide an action plan for resolving the delay, and set a date (within six months) by which the action plan will be completed. If the remediation plan is not completed by the expected due date, the program or project is subject to cancellation and all expended funds must be repaid. To minimize the need to require a remediation plan, LACDC works closely with grantees through monitoring, technical assistance, and planning.

### **Financial Monitoring**

On a monthly basis, LACDC monitors expenditures for all activities. For new activities funded July 1, expenditure monitoring starts in August. Each month, program managers are required to generate and analyze each activity's expenditures. Starting in November, all grantees receive activity expenditure reports advising them of their current expenditure ratios. Those not in compliance receive notification to contact their program manager and begin working on ways to increase expenditures and commit the funding. Together, the program manager and the PC will work to move the funds into new or existing activities where the money can be spent to ensure compliance with CDBG expenditure requirements.

In March, all non-compliant grantees receive notification to submit a workout plan of how the issue will be resolved. If the workout plan will resolve the issue, then no further action is required. If, however, in May there are no improvements, the LACDC holds hearings to review each grantee's circumstances and workout plan. If it is apparent funds will not be expended by July 1, the grantee is informed that their upcoming July 1 allocation will be reduced by the amount needed to bring them into compliance with the 150 percent expenditure rule. This situation has rarely occurred.

### **Economic Development**

Due to the challenges of administering the CDBG Economic Development (ED) program, LA County decided in the 1990s that it would no longer directly allocate CDBG funds for ED activities. Meeting the ED national objective -- to create or retain one full-time equivalent employee for each \$35,000 of funding -- was determined to make it difficult to expend CDBG funds for this activity. Business owners did not want to commit to that requirement.

Instead of funding ED directly with CDBG funds, the LA County Business Loan Program operates as a Revolving Loan Fund (RLF), which has approximately \$11 million available for business loans. Loan amounts can range from \$100,000 to \$2 million. Because the Business Loan Program maintains a balance from ongoing loan payments, the LACDC concentrates its CDBG funding on eligible Community Development activities in support of low- and moderate-income households.

### **Program Income**

The LACDC does not allow any grantee to keep program income (PI) at the grantee level. All program income is required to be remitted to the LACDC within 30 days of receipt of funds. It is then credited to that grantee's funding pool. Each participating PC and District has its own funding pool. At the time a funding request is submitted for reimbursement, the LACDC pays it with any PI on hand prior to drawing down any CDBG funds. If PI remains in a grantee's funding pool at the beginning of the next program year, the grantee's CDBG allocation is reduced by the amount of that PI. The unallocated CDBG funds will then be made available to fund other activities. To ensure compliance with this PI policy, LACDC conducts on-site financial management system audits every two years. This is mandatory for all grantees. If a grantee fails to remit PI as required, this error will be caught during the financial management system audit; and if deficiencies are found, the grantee is required to correct them.

### **Conclusion**

The Los Angeles County CDBG program, administered through the LACDC, is the largest Urban County CDBG program in the nation, releasing approximately \$21 million per year in CDBG funds. The LACDC processes a large number of reports and stays proactively engaged with grantees and stakeholders, while maintaining the CDBG program in compliance with HUD's requirements for timely expenditure of funds and low program income balances.

Because it is an entitlement recipient, LACDC has access to a much larger proportion of CDBG funding to support effective operation of the program. It uses these funds to provide 16 full-time staff who implement the program effectively, primarily through use of the Online Grant Management System, a proactive planning process, and ongoing technical assistance and monitoring based on a standardized risk assessment. Additionally, the decisions LA County has made regarding the funding of ED activities and management of PI may support its success in complying with HUD requirements while providing CDBG funding for an array of Community Development activities.

As HCD continues to redesign the State CDBG program, it would benefit from consulting with LACDC further to explore the feasibility of adopting some of these approaches within the more limited administrative funding and staffing levels available for implementing the program.

## Appendix VII: Proposed Policy Changes to Reduce Program Income

This Appendix provides a detailed list of the proposed policy changes developed by the Redesign Working Group and HCD to address the issue of unspent PI in California's CDBG program.

1. Each CDBG grantee will be required to execute a Program Income Reuse Agreement (PIRA). This includes any grantees that have PI on hand, have undertaken activities that could generate PI, or that anticipate receiving PI; and
2. As part of the PIRA approval process, HCD must review and evaluate each grantee's capacity to carry out the PI activities (programs and projects) contained in the PIRA; and
3. PI may be used for programs that continue the same activity as generated the PI. Programs include Housing Rehabilitation, Homebuyer Assistance, and Economic Development Loan activities. PI programs must be ongoing, which requires the expenditure of funds on at least one completed eligible project with reportable beneficiaries within the prior 18-month reporting period.

Funds in a PI program cannot exceed:

- a. \$250,000 for Housing Rehabilitation Activity, and
- b. \$250,000 for Homebuyer Assistance Activity, and
- c. \$750,000 for Economic Development Loans Activity.

In the event a grantee operates an ongoing program that receives loan repayments in excess of these limits and such funds are re-lent such that the funds do not stagnate in the PI account, HCD will consider an increase in the limit on a case-by-case basis; and

4. PI program funds must continue the same activity. Any grantee seeking to move PI funds from a program to a project (as long as there are no open PI projects), or that wants to move PI from one PI program to another within the ceiling limits, must submit an amendment request. Amendment requests may be submitted in either the initial PIRA or as defined in #5 below, and must be approved by HCD. All CDBG program requirements apply (federal overlays, eligible activity, National Objective, etc.); and
5. PIRA amendments will be allowed and require Department approval. PIRA amendment requests will be accepted twice per year--in January and with the Annual Report, which is due by the end of July each year; and
6. Grantees may undertake one (1) stand-alone PROJECT (outside a "program") with PI at a time. The project must be completed, including beneficiary data reported to HCD, within the

project period approved. If PI expenditures do not occur throughout the project period, or beneficiary data is not reported within the approved period, the project will be deemed stalled and all PI must be remitted to HCD, including PI previously expended on the project; and

7. A percentage of the PI received, including PI for programs that continue the same activity (housing rehabilitation, homebuyer assistance, or economic development loans) may be used for general administration (GA) costs. PI may only cover those costs associated with the administration of PI activities and cannot pay for administration costs for grant-funded projects or activities. GA may not be set aside in advance of receipt of PI funds; and
8. All grantees must submit an annual report for CDBG PI, including those that have no activity. The reporting period is July 1 through June 30, which is the State of California fiscal year. CDBG Annual Program Income Reports will be due by the end of July each year as part of the CDBG Annual Report. The CDBG Annual Program Income Report must include the following:
  - a. An accounting of all PI funds received and expended,
  - b. PI beginning- and end-of-year balances in each activity area,
  - c. Amount of PI over the PI limit that is to be remitted to HCD upon submittal of the annual report, and
  - d. Any requested amendment to the PIRA; and
9. Any grantee with PI on hand or anticipated to have on hand that does not have a PIRA in place and does not have an open Standard Agreement with a commitment to expend the PI funds on an activity identified in the Standard Agreement will be required to remit all PI (the amount on hand and any future receipts) to HCD; and
10. Any grantee with PI on hand that does not have an ongoing PI program and has an open Standard Agreement must expend all PI on hand prior to requesting any grant funds; and
11. Grantees that do not comply with Program Income Reuse requirements will be required to remit all PI funds, those on hand and all future receipts, to HCD; and
12. Grantees that must remit payments of PI must submit the PI with the Annual Report; and
13. Any amounts above the allowable limits per activity must be remitted to HCD, except when used as in #6 above; and
14. PI programs that do not meet the ongoing criteria (funds expended on a completed project within the 18-month reporting period) must be remitted to HCD; and
15. HCD may impose conditions or sanctions on grantees that have a history of failure to comply with the general or specific terms and conditions of the PIRA or Standard Agreement, fails to meet expected performance goals, or is not otherwise responsible.

The conditions and sanctions may include, but are not limited to:

- Grantee payments (including PI funds) require Department approval and must be reimbursement only; or
- Grantee payments (including PI funds) will be withheld until evidence acceptable to HCD showing the issue has been cured; or
- Grantee must submit additional, more detailed financial reports; or
- Additional project monitoring will be required; or
- Grantee required to obtain technical or management assistance; or
- Additional prior approvals will be established for the program and/or project; or
- Grantee will be required to repay all CDBG funds (grant and/or PI) for projects determined ineligible or that do not meet an applicable National Objective.

Grantees will be notified when conditions or sanctions will be imposed. HCD will work with grantees to a satisfactory conclusion of any non-compliance.

Proposed Change for RLFs: As a part of the CDBG program redesign, the following proposes clarification of the change to the RLF process:

1. Grantees' PIRA must indicate the activity type of RLF to be maintained.
2. RLFs cannot be capitalized with grant funds; RLFs are funded by PI. HCD must allow grantees using the PI in a RLF to continue the same activity that generated it to keep the PI; all CDBG rules apply to the re-use of the PI funds.
3. Activity delivery costs (ADC) are allowed for RLF activities, all ADC requirements apply, and ADC expenditures are only allowed once a project is completed. RLF expenditures must result in an eligible activity with reportable beneficiary data or the costs are not eligible.
4. General administration (GA) costs cannot be paid out of a RLF since GA does not meet the definition of revolving (GA is not lent out or repaid; thus the funds are not revolving).
5. RLF accounts must be ongoing, which requires funds to actually revolve (receipts and loans occur) with the expenditure of funds on at least one completed eligible project with reportable beneficiaries within the prior 18-month reporting period. Any RLFs that do not meet the ongoing standard must be remitted to HCD.
6. The use of any RFL funds for an activity different from that which generated the PI will result in all RFL funds being remitted to HCD and the RLF being cancelled. Future payments will be considered PI and subject to all requirements.

# Appendix VIII: Alternatives for Reducing Eligible Activities

## Background:

The U.S Department of Housing and Urban Development (HUD) allows states a great degree of latitude in operating their state Community Development Block grant (CDBG) programs, including allowing states to offer some or all eligible federal CDBG activities. Currently, California offers funding for 63 eligible activities in two major categories (excluding administrative activities): Fifty-seven (57) activities in Community Development and six in Economic Development. Applicants may apply for funding for one or more of these eligible activities in each Notice of Funding Availability (NOFA) funding cycle. Tables A1 and A2 provide an overview of the eligible Community Development and Economic Development activities currently funded.

**Table A1: Currently Eligible Community Development Activities**

<p><b>Public Facilities and Improvements</b></p> <p>Facilities include day care centers, senior centers, park and recreational centers, neighborhood facilities, youth centers, homeless facilities, domestic violence shelters, community centers, fire stations.</p> <p>Includes improvements to curbs, gutters and sidewalks, streets, water and wastewater systems, flood drainage, fire equipment, electrification, and utilities such as gas services.</p>
<p><b>Public Services</b></p> <p>Includes staff and operating costs for senior services, youth services, mental health services, health services, fair housing activities, food services, tenant-landlord counseling, housing counseling, neighborhood cleanup, battered and abused spouses services, and employment training.</p>
<p><b>Housing and Housing Related</b></p> <p>Includes single- and multifamily rehabilitation, rental housing acquisition or homeownership assistance, and improvements in support of new housing construction.</p>
<p><b>Planning and Technical Assistance (PTA)</b></p> <p>Includes studies and plans for housing, public works, and community facilities that meet CDBG national objectives and provide principal benefit to low-income persons.</p>
<p><b>Native American Allocation (1.5 percent set-aside)</b></p> <p>Housing and housing-related activities</p> <p>Water, sewer, and housing</p>

**Table A2: Currently Eligible Economic Development (ED) Activities**

<p><b>Enterprise Fund—Business Assistance</b></p> <p>Working capital, land acquisition, furniture, fixtures, inventory, cash flow, debt restructuring, and other direct assistance.</p>
<p><b>Enterprise Fund—Microenterprise Activities</b></p> <p>Business expenses incurred by an existing Microenterprise or start-up business (Microenterprise means a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise).</p> <p>Line of credit, general support (e.g., child care, transportation), or technical assistance for persons developing Microenterprises.</p>
<p><b>Commercial/Industrial Infrastructure Development</b></p> <p>Curbs, gutters, sidewalks, road improvements, sewer lines, water lines needed for retention or creation of a business that retains or create jobs.</p>
<p><b>Commercial/Industrial Acquisition, Construction, or Rehabilitation</b></p> <p>Purchase of real property for the purpose of expanding a business or building a new structure on the real property.</p> <p>Rehabilitation of an older building to bring up to code or industry standards to improve production efficiency.</p> <p>Improvements to reduce energy costs or improve working conditions.</p>
<p><b>Other Commercial/Industrial Improvements</b></p> <p>Purchase of new equipment to meet specific industry standards, purchase of equipment to expand operations, purchase of industry specific software to manage sales, logistics, accounting requirements.</p>
<p><b>Planning and Technical Assistance (PTA)</b></p> <p>Studies and plans for economic development activities that meet CDBG national objectives.</p>

In January 2017, the Department of Finance (DOF) advised the Department of Housing and Community Development (HCD) that funding would terminate for nine limited term CDBG positions effective June 30, 2017. Due to this decision, HCD initiated efforts to assess its workload capacity and determine ways to reduce operational responsibilities. One strategy identified for reducing staff workload to accommodate the loss of positions was to reduce the number of eligible CDBG activities available for funding. A second strategy identified was to limit the number of activities a jurisdiction can apply for in each funding cycle. Since each separate activity requires additional work on the part of HCD staff, reducing the number of eligible activities or the number of activities allowed in each application should reduce workload. These strategies are discussed below.

**Analysis of Data on Eligible Activities:**

Analysis of data from the five-year period 2012-13 to 2016-17 suggests that most applications are focused on a subset of eligible activities, while there are many activities for which there are consistently no or very few applications. In fact, two categories of activities received almost 70 percent of applications during this period: Public Facilities and Improvements (12 separate activities) with over 50 percent of requests, and Housing and Housing-Related activities with 18

percent of requests. The top five specific activities requested were Water/Sewer Improvements (26 percent), Single-Unit Residential Rehabilitation (8 percent), Other Public Facilities and Improvements (7 percent), ED Assistance to For-Profit Businesses (7 percent), and Homeownership Direct Assistance (6 percent). Almost 60 percent of the eligible activities received less than one percent of funding requests during this period. Table 3 provides data on activities that received one or more percent of applications over the period 2012-13 to 2016-17.

As noted above, 37 (59 percent) of the 63 currently eligible activities received less than one percent of funding requests during the period 2012-13 to 2016-17. Table 4 provides data on activities that received less than one percent of applications over the period 2012-13 to 2016-17.

Analysis of data from 2012-13 to 2016-17 also provides insight into the number of individual activities local jurisdictions are applying for in each funding cycle. As Table 5 illustrates, the number of activities applied for has been fairly consistent over this five-year period, with most jurisdictions applying for two or three activities in each funding cycle.

### **Considerations in Reducing Eligible Activities:**

As noted above, even activities for which there is very little to no demand represent workload for HCD staff. Offering all 63 eligible CDBG activities creates an administrative burden and makes it difficult to manage the program within the current CDBG staffing level of 11 positions. CDBG staff must be knowledgeable about all eligible activities in order to present them effectively in NOFA workshops, address questions from applicants, and assess applications for that activity efficiently and effectively. CDBG staff must also develop and update reporting forms and monitoring procedures for all eligible activities.

Reducing the number of eligible activities would have a positive effect on HCD workload by:

- Reducing the time required to develop program guidelines for threshold, rating and ranking, need, and operational requirements.
- Reducing the administrative burden to review, rate, and rank applications for these activities.
- Reducing the workload to develop Standard Agreements and Contracts for approved applications.
- Reducing the workload to input data into IDIS.
- Eliminating any future need to develop monitoring standards for these activities.

Reducing the number of eligible activities by eliminating those with almost no demand in the past five years would be one strategy. However, although these activities have not been applied for in recent years, some of these activities—such as energy efficiency improvements, employment training, handicapped services, abused and neglected children facilities—may

become higher priorities in years to come. Additionally, demand for eligible activities may not be best measured by the total amount of funding requested, since the cost of some of these “low demand” activities may be less (than major infrastructure or public improvement projects, for example), resulting in a lower total funding amount requested. Looking at the number of applications received, rather than a total dollar amount, would provide another perspective on demand.

There are also alternative approaches to reducing the number of eligible activities that could be explored. One strategy would be to align eligible activities with state priorities so that funding is focused on achieving specific goals. Alternatively, eligible activities could be identified through a needs assessment conducted annually prior to the development of the NOFA, with local jurisdictions “voting” on their top five or ten priorities for CDBF funding that funding cycle. While this approach would reduce some workload for HCD, the reduction would be less than that achieved through a permanent reduction to a handful of in eligible activities, as staff would be required to learn about the activities funded each year in order to rate, rank and monitor those activities.

Limiting the number of activities a jurisdiction can apply for in each funding cycle could also reduce workload since each separate activity requires additional work on the part of HCD staff. Since most jurisdictions apply for three or less activities in each funding cycle, HCD could implement a workload analysis to determine the extent to which limiting the number of activities a jurisdiction can apply for in each funding cycle could reduce staff workload in processing applications, issuing awards, and monitoring contract performance.

These alternatives for reducing eligible activities will be further explored as part of the redesign process and development of new program guidelines.

Table A3: Activities With 1% or More Applications 2012-13 to 2016-17

Eligible Activity	2012 - 2016 Total			% of Cumulative Total		
	Applied*	Awarded*	Expended*	Applied*	Awarded*	Expended
*Award and Expenditure may be greater than Demand due to Program Income						
<b>Public Facilities and Improvements</b>						
<b>Other Public Facilities &amp; Improvement to Public Facilities (not listed below)</b>	\$18,112,305	\$8,079,746	\$2,641,846	7%	4%	1%
Senior Center	\$6,979,574	\$3,359,713	\$101,300	3%	2%	0%
Homeless Facilities (not operating cost)	\$3,228,765	\$4,624,114	\$2,585,966	1%	2%	1%
Neighborhood Facilities	\$2,954,789	\$1,082,883	\$563,297	1%	1%	0%
Parks. Recreational Facilities	\$7,520,860	\$2,646,047	\$253,507	3%	1%	0%
Flood Drainage Improvements	\$1,843,573	\$1,843,573	\$0	1%	1%	0%
Water/Sewer Improvement	\$67,182,219	\$53,686,043	\$22,718,103	26%	26%	11%
Street Improvements	\$14,262,603	\$9,917,783	\$3,843,690	5%	5%	2%
Sidewalks	\$9,838,689	\$7,123,573	\$1,394,482	4%	4%	1%
Child Care Center	\$1,050,896	\$1,050,896	\$1,043,000	0%	1%	1%
Fire Station/Equipment	\$3,738,603	\$3,087,441	\$701,511	1%	2%	0%
Health Facilities	\$2,782,849	\$2,782,849	\$1,975,350	1%	1%	1%
<b>Public Facilities and Improvements Total</b>	<b>\$139,495,725</b>	<b>\$99,284,661</b>	<b>\$37,822,052</b>	<b>54%</b>	<b>49%</b>	<b>19%</b>
<b>Public Services</b>						
<b>Other Public Services (not listed below)</b>	\$3,696,865	\$2,712,195	\$1,624,949	1%	1%	1%
Operating Cost Homeless/AIDS Patients	\$2,252,112	\$1,919,089	\$1,044,275	1%	1%	1%
Senior Services	\$2,552,803	\$1,642,791	\$339,275	1%	1%	0%
Battered and Abused Spouses	\$1,926,487	\$1,180,540	\$595,813	1%	1%	0%
Food Banks	\$1,605,931	\$1,811,931	\$1,128,973	1%	1%	1%
Code Enforcement (functions as a public serv	\$2,568,081	\$1,656,453	\$282,385	1%	1%	0%
<b>Public Services Total</b>	<b>\$14,602,279</b>	<b>\$10,922,999</b>	<b>\$5,015,670</b>	<b>6%</b>	<b>5%</b>	<b>2%</b>
<b>Housing and Housing Related</b>						
Homeownership Direct Assistance	\$14,714,364	\$14,101,312	\$5,653,081	6%	7%	3%
Rehab; Single-Unit Residence	\$21,825,294	\$16,934,655	\$3,236,899	8%	8%	2%
Rehab; Multi-Unit Residential	\$5,493,483	\$4,734,320	\$2,827,946	2%	2%	1%
<b>Housing and Housing Related Total</b>	<b>\$42,033,141</b>	<b>\$35,770,287</b>	<b>\$11,717,926</b>	<b>16%</b>	<b>18%</b>	<b>6%</b>
<b>Non-Residential Historic Preservation</b>	<b>\$5,184,013</b>	<b>\$5,184,013</b>	<b>\$4,706,973</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>
<b>Economic Dev (ED) &amp; ED Related</b>						
Commercial/Industrial infrastructure Develop	\$3,813,038	\$2,974,019	\$0	1%	1%	0%
ED Assistance to For Profits	\$17,949,120	\$18,163,830	\$11,018,527	7%	9%	5%
Microenterprise Assistance	\$7,648,288	\$7,184,326	\$1,663,647	3%	4%	1%
<b>Economic Dev (ED) &amp; ED Related Total</b>	<b>\$29,410,446</b>	<b>\$28,322,175</b>	<b>\$12,682,174</b>	<b>11%</b>	<b>14%</b>	<b>6%</b>
<b>Planning &amp; Admin</b>						
Rehabilitation Administration	\$5,018,959	\$4,055,661	\$805,705	2%	2%	0%
State Planning (Planning only activity)	\$6,667,238	\$5,375,597	\$2,311,557	3%	3%	1%
General Program Administration	\$18,092,472	\$13,869,588	\$4,875,080	7%	7%	2%
<b>Planning &amp; Admin Total</b>	<b>\$29,778,669</b>	<b>\$23,300,846</b>	<b>\$7,992,342</b>	<b>11%</b>	<b>11%</b>	<b>4%</b>
<b>All Activities Total</b>	<b>\$260,504,273</b>	<b>\$202,784,981</b>	<b>\$79,937,137</b>	<b>100%</b>	<b>78%</b>	<b>39%</b>

**Table A4: Activities with Less Than 1% of Applications 2012-13 to 2016-17**

Eligible Activity	2012 - 2016 Total			% of Cumulative		
	Applied*	Awarded*	Expended*	Applied*	Awarded*	Expended
*Award and Expenditure may be greater than applied for due to Program Income						
<b>Acquisition of Real Property (for development)</b>	<b>\$ 186,047.00</b>	<b>\$ 186,047.00</b>	<b>\$ -</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ -</b>
<b>Public Facilities and Improvements</b>						
Handicapped Center	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Youth Centers	\$150,000.00	\$0.00	\$0.00	0.001	0.000	0.000
Parking Facilities	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Solid Waste Disposal Improvements	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Child Care Center	\$1,050,896.00	\$1,050,896.00	\$1,043,000.00	0.004	0.005	0.005
Tree Planting	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Abused and Neglected Children Facilities	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Asbestos Removal	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Facilities to AIDS Patients (no operating cost)	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Clearance, Demo, Remediation	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Cleanup of Contaminated Sites	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
<b>Public Facilities and Improvements Total</b>	<b>\$1,200,896.00</b>	<b>\$1,050,896.00</b>	<b>\$1,043,000.00</b>	<b>52%</b>	<b>48%</b>	<b>18%</b>
<b>Public Services</b>						
Handicapped Services	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Legal Services	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Youth Services	\$1,203,022.00	\$941,553.00	\$355,414.00	0.005	0.005	0.002
Transportation Services	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Employment Training	\$664,594.00	\$664,594.00	\$382,399.00	0.002	0.003	0.002
Crime Awareness	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Fair Housing Activities-SUBJ. to Pub Ser. Cap	\$103,880.00	\$65,000.00	\$0.00	0.000	0.000	0.000
Tenant/Landlord Counseling	\$32,400.00	\$0.00	\$0.00	0.000	0.000	0.000
Child Care Services	\$450,160.00	\$275,200.00	\$0.00	0.002	0.001	0.000
Health Services	\$158,140.00	\$158,140.00	\$0.00	0.001	0.001	0.000
Abused and Neglected Children	\$1,140,207.00	\$907,649.00	\$170,988.00	0.004	0.004	0.001
Mental Health Services	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Screening for Lead Based Paint/Lead Hazards	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Subsistence Payments	\$616,279.00	\$581,395.00	\$489,620.00	0.002	0.003	0.002
Security Deposits	\$0.00	\$46,512.00	\$22,700.00	0.000	0.000	0.000
Housing Counseling	\$0.00	\$0.00	\$0.00	0.000	0.000	0.000
Neighborhood Cleanups	\$1,020,640.00	\$648,547.00	\$162,440.00	0.004	0.003	0.001
<b>Public Services Total</b>	<b>\$5,389,322.00</b>	<b>\$4,288,590.00</b>	<b>\$1,583,561.00</b>	<b>8%</b>	<b>7%</b>	<b>3%</b>
<b>Housing and Housing Related</b>						
Public Housing Modernization	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Rehab; Other than Public-Owned Residential Bids	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Energy Efficiency Improvements	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Acquisition for Rehabilitation	\$74,262.00	\$0.00	\$0.00	0.00	0.00	0.00
Lead Base Paint/Hazards Test/Abatement	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Residential Historic Preservation	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Housing and Housing Related Total</b>	<b>\$74,262.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>
<b>Economic Dev (ED) &amp; ED Related</b>						
Commercial/Industrial Building Acq., Construction, R	\$0.00	\$279,070.00	\$0.00	0.00	0.00	0.00
Other Commercial/Industrial Improvement	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Rehab; Pub./Private-Owned Commercial/Industrial	\$242,670.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Economic Dev (ED) &amp; ED Related Total</b>	<b>\$242,670.00</b>	<b>\$279,070.00</b>	<b>\$0.00</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>
<b>All Activities Total</b>	<b>\$7,093,197.00</b>	<b>\$5,804,603.00</b>	<b>\$2,626,561.00</b>	<b>3%</b>	<b>3%</b>	<b>33%</b>

**Table A5: How many activities do jurisdictions apply for on average?**

<b>Applicants with:</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>
<b>1 activity</b>	14	23	3	8	7
<b>2 activities</b>	17	15	5	2	5
<b>3 activities</b>	17	16	8	6	11
<b>4 activities</b>	9	5	9	5	6
<b>5 activities</b>	2	4	1	1	2
<b>6 activities</b>	0	0	4	0	2
<b>Average</b>	2.46	2.24	3.40	2.50	2.91

Source data: Department of Housing and Community Development, Consolidated Automated Program Enterprise System (CAPES). Data retrieved 5/24/2018.